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*report of the  
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*PART IV*

*Study of Canadian pilotage  
Gulf and  
River St. Lawrence*





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## ROYAL COMMISSION ON PILOTAGE

*To His Excellency*

THE GOVERNOR GENERAL OF CANADA

*May it Please Your Excellency*

We, the Commissioners appointed pursuant to Order in Council dated 1st November 1962, P.C. 1962-1575, to inquire into and report upon the problems of marine pilotage in Canada and to make recommendations concerning the matters more specifically set forth in the said Order in Council: Beg to submit the following Report.

*/s/ Bermin*  
CHAIRMAN

*Robert K. Smith*  
*J. J. Zemanick*

*J. W. Macdonald*  
*[Signature]*

SECRETARY

June 10, 1970

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\*Capt. J. A. Scott served as Nautical Adviser to the Commission from March 1, 1963 until his accidental death November 29, 1963.

# TABLE OF CONTENTS

## SECTION ONE

### PILOTAGE DISTRICT OF QUEBEC

#### CHAPTER A

	PAGE
LEGISLATION.....	7
1. Law and Regulations.....	7
Preamble.....	7
(1) Special Provisions of the Canada Shipping Act and Orders Made by the Governor in Council Pursuant to the Canada Shipping Act.....	8
(a) Creation of the District.....	8
(b) District Limits.....	8
<i>Comments</i> .....	11
(c) Pilotage Authority.....	11
<i>Comments</i> .....	12
(d) Compulsory System.....	12
(e) Quebec District Pilot Fund.....	14
(2) Provisions not Contained in the Canada Shipping Act and Affecting the Organization of the Pilotage District.....	16
(a) The Corporation of Pilots for and below the Harbour of Quebec Act.....	16
(b) Payment of District Operating Costs.....	16
(3) Pilotage Authority's Enactments Approved by Governor in Council.....	16
(a) Appointment of Secretary-Treasurer and Payment of District Expenses.....	16
<i>Comments</i> .....	20
(b) Delegation of Pilotage Authority's Powers.....	20
(c) Exemptions and Withdrawal of Exemptions.....	20
(d) General By-law Passed under Sec. 329 C.S.A.....	21
2. History of Legislation.....	23
(1) French Period (1608-1760).....	23
(2) Superintendent of Pilots as Pilotage Authority (1760-1805).....	25
(3) Public Corporations as Pilotage Authority (1805-1905).....	29
Preamble.....	29
(a) Trinity House as Pilotage Authority.....	30
	ix

	PAGE
(b) Creation of the Quebec Pilots' Corporation.....	39
(c) The Pilotage Act, 1873.....	42
(d) Quebec Harbour Commissioners Pilotage Authority as Successors to Trinity House.....	44
(4) Pilotage Legislation (1877-1903).....	46
(5) Saguenay Pilotage District (1903-1905).....	48
(6) Transition Period (1905-1934)—The Minister Pilotage Authority as Suc- cessor to Trinity House.....	49
(a) 1905 Act.....	49
(b) 1906 Canada Shipping Act.....	50
(c) Lindsay Report—1913.....	53
(d) Answer of the Corporation of Pilots.....	58
(e) 1914 Act.....	59
(f) 1915 By-law.....	59
(g) 1916 Amendment to Canada Shipping Act.....	60
(h) 1916 By-law.....	61
(i) Robb Royal Commission—1918.....	61
(j) Paquet Case.....	64
(k) Pilots' Association.....	64
(l) 1927 C.S.A.....	66
(m) 1928 By-law.....	67
(n) 1933 Amendment to C.S.A.....	68
(o) Gibb Report and National Harbours Board.....	68
(7) The Minister as Pilotage Authority pursuant to C.S.A.—1934 to Date.....	68
(a) 1934 C.S.A.....	68
(b) Cannon Report—1942.....	70
(c) St. Lawrence River Ship Channel Committee—1946.....	71
(d) Survey by Captain F. S. Slocombe.....	72
(e) Audette Report—1949.....	74
(f) Amendments to C.S.A. (1948-1950).....	75
(g) Further Amendments to 1928 By-law.....	76
(h) 1957 General By-law and Amendments.....	76
(i) Pilots' Organizations.....	77
(j) Pilots' Strike—1962.....	77
(k) Quebec District Tariff Evolution.....	77

## CHAPTER B

BRIEFS.....	79
(1) The Federation of the St. Lawrence River Pilots' Brief.....	80
(2) The Canadian Merchant Service Guild's Brief.....	88



(3) Captain Maurice Koenig's Brief.....	94
(4) Captain Lucien Bédard's Brief.....	94
(5) Brief by Twenty-One Pilots of the Quebec District.....	95
(6) Shipping Federation of Canada's Brief.....	96
(7) Dominion Marine Association's Brief.....	102
(8) Canadian Shipowners Association's Brief.....	104
(9) Imperial Oil Ltd. Brief.....	107
(10) Clarke Steamship Company Limited Brief.....	107
(11) Institut de Marine de la Province de Québec Brief.....	108
(12) The Lower St. Lawrence and Gulf Development Association's Brief.....	109
(13) Computing Devices of Canada Ltd. Brief.....	110

# CHAPTER C

EVIDENCE.....	113
Preamble.....	113
Trips and Turns.....	113
Number of Pilots.....	116
1. General Description.....	119
(1) District Limits.....	119
(a) Eastern Limit Problem.....	119
(b) Western Limit.....	121
(2) Physical Features.....	122
(a) General Description of Quebec District.....	122
(b) Main Navigational Features.....	123
(c) North and South Channels of the St. Lawrence.....	126
(d) Quebec District Described in Three Sections.....	128
(i) St. Lawrence River—Les Escoumins to Goose Cape.....	128
(ii) St. Lawrence River—Goose Cape to Quebec City.....	130
(iii) Saguenay River.....	138
(3) Principal Harbours.....	141
(a) Quebec Harbour.....	141
(b) Ha Ha Bay Harbour.....	144
(c) Chicoutimi Harbour.....	146
(d) Other Harbours.....	148
(4) Maritime and Pilotage Traffic.....	148
Speed Limit.....	152

	PAGE
(5) Aids to Navigation.....	155
(a) Proposals for Improving the Ship Channel.....	157
(b) Lighthouses.....	160
(c) Range Lights.....	160
(d) Floating Aids to Navigation.....	162
(e) Direction-Finding.....	163
(f) Decca System.....	164
(g) Removal of Lightships.....	164
(h) Aids to Navigation on the Saguenay River.....	166
(i) Efficiency of Aids to Navigation.....	167
<i>Comments</i> .....	169
(j) Centre Line.....	169
(k) Notices to Shipping and Notices to Mariners.....	170
<i>Comments</i> .....	171
(l) Cost of Aids to Navigation.....	171
(m) Racon and Ramark.....	172
(n) Navigational Instruments in Ships.....	172
(o) St. Lawrence River Navigation Safety Regulations.....	177
(p) D.O.T. Marine Information and Telecommunication Services.....	177
(i) The former Marine Reporting Service.....	178
(ii) Marine Traffic Control System and Marine Information Service.....	180
<i>Comments</i> .....	187
(iii) Telecommunications.....	190
<i>Comments</i> .....	197
(6) Winter Navigation.....	197
(a) Ice Advisory Service.....	200
(b) Winter Navigation in the Gulf of St. Lawrence.....	201
(c) Winter Navigation on the St. Lawrence River.....	201
(d) Winter Traffic Statistics.....	203
2. Nature of Pilotage Service.....	205
(1) Nature of the Service.....	205
Bill S-3.....	210
Recommendations Received.....	211
3. Organization.....	211
(1) Pilotage Authority.....	211
(2) Supervisor of Pilots.....	212

	PAGE
(3) Pilots' Committee.....	214
(4) Advisory Committee.....	217
(5) Regional Superintendent of Pilots.....	221
(6) Department of Transport Personnel as Advisers to the Authority.....	223
4. Pilots.....	225
(1) Recruiting and Qualifications of Pilots.....	225
(a) Number of Pilots.....	225
<i>Comments</i> .....	230
(b) Recruiting and Apprenticeship.....	231
(i) Temporary licences.....	244
(ii) Nepotism under the 1860 Corporation system.....	247
(iii) Admission and Promotion Committee.....	248
(iv) Grade system.....	251
<i>Comments</i> .....	257
(v) Special cases.....	258
<i>Comments</i> .....	258
<i>General Comments</i> .....	259
(2) Pilots' Organizations.....	262
(a) Corporation of Pilots for and below the Harbour of Quebec.....	263
(b) L'Association des Pilotes licenciés pour le Havre de Québec et en aval.....	266
(c) Corporation of the Lower St. Lawrence Pilots.....	272
(i) Creation of the Corporation.....	272
(ii) Meetings.....	277
(iii) Elections.....	277
(iv) Items for the agenda.....	278
(v) By-law amendment, cancellation or addition.....	279
(vi) Remuneration of Directors.....	280
(vii) Consultative procedure.....	281
(viii) Affiliation.....	281
(ix) Corporation committees.....	281
(x) Finance.....	282
(xi) Audits.....	288
<i>Comments</i> .....	289
(xii) Bulletins and reports.....	290
(xiii) Dissidence among pilots.....	291
(xiv) Petition by 21 pilots.....	296
(d) The Federation of the St. Lawrence River Pilots.....	296
(i) Finances.....	303
(ii) Remuneration of Federation Directors.....	304

	PAGE
(e) Guild Membership.....	306
(3) Leave of Absence.....	306
<i>Comments</i> .....	310
(4) Contention about Statistics.....	311
(5) Pilots' Status and Working Conditions.....	314
(6) Pilots' Log-book.....	316
<i>Comments</i> .....	317
(7) Co-operation with Various Authorities.....	317
(8) Canuk Trader Case.....	321
(9) Berthing Problems in Quebec Harbour.....	322
(a) Quebec Harbour Pilotage Statistics.....	328
(b) Analysis of Quebec Pilots' Performance.....	333
(c) Analysis of Montreal Pilots' Performance.....	335
(d) Recommendation Received.....	340
(10) Revolts against Pilotage Authority.....	345
(11) Threatened Strike in 1960.....	345
<i>Comments</i> .....	355
(12) The 1962 Strike.....	356
<i>Comments</i> .....	364
(13) Shipping Casualties.....	365
Preamble.....	365
(A) Formal Inquiries.....	367
(a) S.S. <i>John E.F. Misener</i> , grounding, November 6, 1959.....	367
(b) Collision between S.S. <i>Tritonica</i> and S.S. <i>Roonagh Head</i> , July 20, 1963.....	368
(c) Collision between S.S. <i>Leecliffe Hall</i> and M.V. <i>Apollonia</i> , the loss of the <i>Apollonia</i> and loss of life, September 5, 1964....	370
(d) M.V. <i>Lawrencecliffe Hall</i> and S.S. <i>Sunek</i> , collision, November 16, 1965.....	373
(e) S.S. <i>Exiria</i> , grounding, June 23, 1967.....	376
<i>Comments</i> .....	378
(B) Preliminary Inquiries.....	379
(C) Inquiries under Sec. 579 C.S.A.....	380
<i>Comments</i> .....	381
(D) Discipline.....	381
Examples of Disciplinary Cases.....	385
(a) M.V. <i>Arrow</i> incident.....	385
(b) S.S. <i>Oak Hill</i> and M.V. <i>Continental Pioneer</i> cases.....	389
(c) Collision between M.V. <i>Cartier</i> and M.T. <i>Seven Skies</i> .....	393
(d) M.V. <i>Irvingstream</i> case.....	396

	PAGE
(e) Case of pilot No. 70.....	397
(f) Case of ex-pilot J. Patrice Drapeau.....	399
<i>Comments</i> .....	400
General Remarks.....	400
5. Pilotage Operations.....	401
(1) Pilot Stations and Pilot Boarding Stations.....	401
(a) Les Escoumins Pilot Station.....	403
(b) Quebec City Pilot Station.....	410
<i>Comments</i> .....	412
(2) Information Required by Pilots before Embarking.....	413
<i>Comments</i> .....	415
(3) Pilot Vessel Service.....	418
(a) Quebec Station Pilot Vessel Service.....	423
<i>Comments</i> .....	426
(b) Tugs.....	427
(4) Despatching.....	429
(a) Despatching Rules.....	433
(b) Unwritten Despatching Rules.....	436
(c) Movages.....	437
(d) Trial Trips.....	438
(e) Special Despatching.....	438
(f) Winter Despatching.....	439
(g) Notification to Pilots.....	441
(h) Pilots Going outside District Limits.....	441
(i) Notice of Requirement for Pilots and Difficulties Arising from Inaccuracy or Absence.....	442
(5) Workload.....	445
(a) Remarks on Statistics.....	446
(b) Workload Statistics.....	448
<i>Comments</i> .....	462
6. Pilotage Revenue and Tariff.....	463
Preamble.....	463
(1) Pilotage Voyage Charges (Trip Charges).....	466
(a) Basic Rates.....	466
(b) Class A Additional Charge.....	468
(c) Winter Tariff or Assistant Pilots' Remuneration.....	469
<i>Comments</i> .....	471
(2) Movage Rates.....	472
(3) Detention.....	473



	PAGE
(4) Cancellation.....	474
(5) Quarantine, Detention and Overcarriage.....	475
(6) Compass Adjustment and Direction-Finder Calibration.....	476
(7) Miscellaneous Items.....	476
(8) Meal Allowance.....	476
(9) Dues Collected from Ships Not Employing Pilots.....	477
(10) Fines.....	477
(11) Unofficial Earnings.....	477
Cost of Pilotage to the Government.....	478
7. Pilots' Remuneration and Pooling.....	478
Advance Distribution.....	485
Final Distribution.....	486
Comments.....	493
8. Financial Administration.....	493
Preamble.....	493
(1) Collection of Dues.....	495
(2) Accounting.....	496
9. Pension Fund.....	499
CHAPTER D	
CHAPTER E	
APPENDICES.....	507
A. Shipping Casualties, Accidents and Incidents Involving Pilots:	
(1) Table—Comparative statistical analysis for the ten-year period 1959–1968 inclusive.....	508
(2) Summary—Detailed analysis for the years 1963 and 1968.....	510
B. (1) Graphs a. June 1962 workload of pilot Paul Emile Cloutier.....	515
b. June 1963 workload of pilot Paul Emile Cloutier.....	516
c. June 1964 workload of pilot Paul Emile Cloutier.....	517
(2). Tables a. Comparative detailed analysis of workload of pilot Paul Emile Cloutier during the month of June for the three-year period 1962, 1963 and 1964.....	518
b. Comparative summary of workload of pilot Paul Emile Cloutier during the month of June for the three-year period 1962, 1963 and 1964.....	520
C. (1) Graph—Showing the variation in the aggregate number of trips on a per month basis for the years 1963–1968 inclusive.....	521
(2) Table—Aggregate number of trips by Quebec pilots each month during the years 1963–1968 inclusive.....	523
D. (1) Table—Comparative summary of workload of busiest pilot during busiest month for the three-year period 1962, 1963 and 1964.....	524
(2) Table—Comparative summary of workload of busiest pilot during least busy month for the three-year period 1962, 1963 and 1964.....	524

SECTION TWO

LOWER ST. LAWRENCE RIVER PORTS AND AREAS

Preamble.....	526
---------------	-----

Subsection I

BAIE-COMEAU

Baie-Comeau.....	530
------------------	-----

Subsection II

PORT-CARTIER

Port-Cartier.....	538
-------------------	-----

Subsection III

SEPT-ÎLES

Sept-Îles.....	546
----------------	-----

Subsection IV

HAVRE ST-PIERRE

Havre St-Pierre.....	556
----------------------	-----

SECTION THREE

PILOTAGE DISTRICT OF MONTREAL

CHAPTER A

LEGISLATION.....	563
------------------	-----

1. Law and Regulations.....	563
-----------------------------	-----

Preamble.....	563
---------------	-----

(1) Special Provisions of the Canada Shipping Act and Orders Made by the Governor in Council Pursuant to the Canada Shipping Act.....	564
---	-----

(a) Creation of the District.....	564
-----------------------------------	-----

(b) District Limits.....	564
--------------------------	-----

(c) Pilotage Authority.....	567
-----------------------------	-----

(d) Compulsory System.....	567
----------------------------	-----

(2) Legislation not Contained in, nor Emanating from, the Canada Shipping Act and Affecting the Organization of the Pilotage District.....	567
--	-----

(a) The Corporation of the Pilots for and above the Harbour of Quebec.....	567
--	-----

(b) Payment of District Operating Expenses.....	568
---	-----

	PAGE
(3) Pilotage Authority's Enactments Approved by Governor in Council.....	568
(a) Appointment of Secretary-Treasurer and Payment of District Expenses.....	568
(b) Delegation of Pilotage Authority's Powers.....	568
(c) Exemptions and Withdrawal of Exemptions.....	569
(d) General By-law Passed under sec. 329 C.S.A.....	570
General Provisions.....	570
River Pilots.....	570
Harbour Pilots.....	573
2. History of Legislation.....	575
CHAPTER B	
BRIEFS.....	615
(1) Federation of St. Lawrence River Pilots.....	615
(2) Shipping Federation of Canada.....	616
(3) Canadian Merchant Service Guild.....	616
(4) Clarke Steamship Company Limited.....	616
CHAPTER C	
EVIDENCE.....	617
Preamble.....	617
1. General Description.....	621
(1) District Limits.....	621
(a) Pilot Limits.....	621
(b) Problems Resulting from the Obsolete Definition of the Western Limit.....	627
(2) Physical Features.....	629
(a) Montreal Harbour Proper.....	629
(b) Marien Street Wharf—Trois-Rivières Sector.....	631
(c) Trois-Rivières—Quebec Sector.....	632
(3) Principal Harbours.....	633
(a) Montreal Harbour.....	633
(i) Harbour traffic control.....	634
<i>Comments</i> .....	641
(ii) Speed limit.....	642
(iii) Notices to Shipping.....	642
(iv) Draught control—under keel clearance requirement.....	643
<i>Comments</i> .....	645
(b) Sorel Harbour.....	646
(c) Trois-Rivières Harbour.....	647

	PAGE
(4) Maritime and Pilotage Traffic.....	647
(5) Improvements to, and Maintenance of, the Ship Channel.....	648
(6) Aids to Navigation.....	653
(7) St. Lawrence River Navigation Safety Regulations.....	655
(8) D.O.T. Marine Information and Telecommunication Services.....	656
(9) Winter Navigation.....	657
2. Nature of Pilotage Service.....	658
3. Organization.....	660
(1) Montreal Advisory Committee.....	661
(2) Recommendations Received regarding the Re-organization of the District..	664
4. Pilots.....	667
(1) Number of Pilots.....	667
(2) Recruiting and Training of Pilots.....	668
(a) Recruiting and Training of River Pilots.....	668
<i>Comments</i> .....	671
Temporary Licences.....	672
<i>Comment</i> .....	672
Grading of Pilots.....	673
(b) Recruiting and Training of Harbour Pilots.....	675
<i>Comments</i> .....	681
(3) Pilots' Organizations.....	682
(a) The United Montreal Pilots.....	683
(b) The Mid-St. Lawrence Pilots' Corporation.....	684
(c) The Corporation of the Montreal Harbour Pilots.....	687
<i>Comments</i> .....	688
(d) Finance.....	688
Mid-St. Lawrence Pilots' Corporation.....	688
Financial Operations—Harbour Pilots' Corporation.....	695
(4) Conflicts between Pilots, Shipping Interests and Pilotage Authority.....	702
(5) Dispute between the Montreal Harbour Pilots and the Cornwall Pilots over the Changeover Point at St. Lambert Lock.....	713
(6) Leave of Absence.....	721
(A) River Pilots.....	721
(a) Rules governing leave of absence.....	721
(b) Regular leave of absence and annual holidays.....	723
(c) Sick leave and absence on Corporation duty.....	724
(B) Harbour Pilots.....	724
(a) Absence and leave system.....	724
(b) Free turns.....	725

	PAGE
(7) Shipping Casualties.....	726
(A) Formal Inquiries.....	727
(a) Collision between M. V. <i>Transatlantic</i> and M.V. <i>Hermes</i> April 10, 1965.....	727
(b) Sinking of dredge <i>Manseau 101</i> September 30, 1966.....	729
(B) Inquiries under Sec. 579 C.S.A.....	730
(a) M.V. <i>Beechmore</i> , grounding, August 5, 1961.....	730
(b) M.S. <i>Timna</i> , grounding, August 19, 1961.....	731
(C) Preliminary Inquiries.....	734
(D) Cases before the Admiralty Court and the Exchequer Court.....	735
(a) Collision between the tank ship <i>Britamlube</i> and the <i>Prins</i> <i>Frederick Willen</i> June 20, 1958, in the harbour of Montreal..	735
(E) Discipline.....	736
5. Pilotage Operations.....	738
(1) Pilot Stations and Pilot Boarding Stations.....	738
<i>Comments</i> .....	741
(2) Pilot Vessel Service.....	743
(3) Tug Service.....	745
(4) Despatching Procedure.....	747
(A) Despatching Procedure for River Pilots.....	747
(a) Lower and upper sectors.....	748
(b) Tour de rôle.....	748
(c) Despatching turns.....	749
(d) Grades.....	750
(e) Rest periods between trip assignments.....	751
(f) Change of place on the roster and miscellaneous provisions..	751
(g) Movages.....	751
(h) Despatching planning.....	752
(B) Despatching Procedure for Harbour Pilots.....	754
(C) Failures of the Despatching System; St. Lambert Lock Problem	755
<i>Comments</i> .....	758
(5) Workload.....	760
(A) River Pilots' Workload .....	760
<i>Comments</i> .....	769



(B) Harbour Pilots' Workload.....	770
(a) Aggregate workload.....	770
(b) Pilot J. J. Ménard's workload.....	772
6. Pilotage Revenue and Tariff.....	776
Preamble.....	776
(1) Pilotage Revenue and Tariff—River Pilots.....	776
(A) Pilotage Voyage Charges (Trip Charges).....	776
(a) Basic rates.....	778
<i>Comments</i> .....	780
(b) Seaway charge.....	781
(c) Winter tariff or assistant pilot's remuneration.....	782
(d) Other components.....	782
<i>Comments</i> .....	782
(B) Movage Rates.....	782
<i>Comments</i> .....	783
(C) Detention.....	783
<i>Comments</i> .....	784
(D) Cancellation.....	785
(E) Travelling Allowance.....	785
<i>Comments</i> .....	786
(F) Compass Adjustments.....	786
(G) Unofficial Earnings.....	786
(H) Pilotage Dues Payable to the Receiver General of Canada.....	786
(2) Pilotage Revenues and Tariff—Harbour Pilots.....	787
(A) Movage Rates.....	787
<i>Comments</i> .....	790
(B) Detention and Cancellation Charges.....	791
<i>Comments</i> .....	792
(C) District Revenue Derived from Sources other than Pilotage Dues.....	792
7. Pilots' Remuneration and Pooling System.....	793
(1) River Pilots.....	793
(a) Pooling Procedure.....	797
(b) Extent of Distribution.....	798
(c) Establishment of Sharing Rights.....	799
<i>Comments</i> .....	801

	PAGE
(d) Pilotage Income.....	801
(2) Harbour Pilots.....	803
(a) Method of Remuneration and Pooling System.....	803
<i>Comments</i> .....	807
(b) Pilotage Income.....	808
<i>Comments</i> .....	810
8. District Financial Administration.....	810
Preamble.....	810
9. Pension Fund.....	819
CHAPTER D	
CHAPTER E	
APPENDICES.....	823
<i>I. Montreal River Pilots</i>	
A. Shipping Casualties, Accidents and Incidents with a Montreal River Pilot on Board:	
(1) Table—Comparative statistical analysis during the ten-year period 1959-1968 inclusive.....	825
(2) Summary—Detailed analysis for the years 1965 and 1966.....	827
B. (1) Graphs—	
a. June 1962 workload of Montreal river pilot J. B. Bélanger....	833
b. June 1963 workload of Montreal river pilot J. B. Bélanger....	834
c. June 1964 workload of Montreal river pilot J. B. Bélanger....	835
(2) Tables—	
a. Comparative detailed analysis of workload of pilot J. B. Bélanger for the month of June for the three-year period 1962, 1963 and 1964.....	836
b. Comparative summary of workload of pilot J. B. Bélanger during the month of June for the three-year period 1962, 1963 and 1964.....	840
(3) Tables—	
a. Comparative summary of workload of busiest pilot during busiest month for the three-year period 1962, 1963 and 1964....	842
b. Comparative summary of workload of busiest pilot during least busy month for the three-year period 1962, 1963 and 1964	843
C. Trips by Montreal River Pilots Each Month during 1963-1968 Inclusive:	
(1) Graph—	
a. Between Montreal and Trois-Rivières.....	844
b. Between Quebec and Trois-Rivières.....	845
(2) Table —Aggregate number.....	846

	PAGE
D. Montreal River Pilots—Comparative Analysis of Winter Navigation Trips:	
(1) Table —Total number of trips.....	847
(2) Table —Total full and half trips.....	848
(3) Table —Number of uninterrupted trips.....	849
(4) Table —Number of trips interrupted for night.....	850
(5) Table —Number of trips interrupted for ice.....	851
(6) Table —Number of trips interrupted for other than night or ice.....	852
(7) Table —Number of trips with vessel reinforced for ice.....	853
(8) Table —Number of trips with vessel not reinforced for ice.....	854
(9) Table —Comparative summary of winter navigation trips.....	855

## II. Montreal Harbour Pilots

A. Shipping Casualties, Accidents and Incidents with a Montreal Harbour Pilot on Board:	
(1) Table —Comparative statistical analysis during the ten-year period 1959-1968.....	856
(2) Summary—Detailed analysis for the years 1959 and 1968.....	858
B. (1) Graph—June 1964 workload of Montreal harbour pilot J. J. Ménard....	861
(2) Tables—a. Analysis of workload of pilot J. J. Ménard for the month of June 1964.....	862
b. Summary of workload of pilot J. J. Ménard for the month of June 1964.....	863
(3) Table —Comparative summary of workload of busiest pilot during busiest and least busy months for the three-year period 1962, 1963 and 1964.....	864
C. Trips by Montreal Harbour Pilots Each Month during 1963-1968 Inclusive:	
(1) Graph—Comparison during the years 1963-1968.....	866
(2) Table —Aggregate number during the years 1963-1968.....	867

## SECTION FOUR

### PILOTAGE DISTRICT OF CORNWALL

#### CHAPTER A

LEGISLATION.....	871
1. Law and Regulations.....	871
Preamble.....	871
(1) Orders in Council Made Pursuant to the Canada Shipping Act.....	871
(a) Creation of the District.....	871
(b) Limits of the District as Stated in Order in Council.....	871
(i) Eastern limit.....	871
(ii) Western limit.....	872
<i>Comment</i> .....	872

	PAGE
(c) Pilotage Authority.....	872
(d) Compulsory Payment of Pilotage Dues.....	873
(2) Pilotage Authority's Enactments Confirmed by Governor in Council.....	873
(a) Appointment of Secretary-Treasurer and Authorization for Payment of District Expenses.....	873
(b) Delegation of Pilotage Authority's Powers.....	873
(c) Exemptions and Withdrawal of Exemptions.....	873
(d) General By-law Passed under Sec. 329 C.S.A.....	874
<i>Comment</i> .....	876
2. History of Legislation.....	876
(1) First Period (1805-1934).....	876
Lachine Section.....	876
Soulanges Section.....	877
International Rapids and Thousand Islands Sections.....	877
(2) Second Period (1934-1952).....	878
(a) Creation of the District.....	878
(b) General By-law.....	878
(c) Slocombe Survey, 1947.....	879
Special Features.....	879
Conditions of Service.....	879
(d) Audette Committee of 1949.....	880
(e) Changes in Demand for Pilotage.....	880
(3) Third Period (1952-1960).....	881
(a) Changes in 1952.....	881
(b) 1955: First Work Stoppage by the Pilots.....	882
(c) 1956: Formation of the First Corporation of Pilots.....	883
(d) 1957: Second Work Stoppage by the Pilots.....	884
(e) 1958: Third Work Stoppage by the Pilots.....	887
(f) 1959: Problems Created by the Opening of the Seaway and Fourth Work Stoppage by the Pilots.....	889
(g) 1960: Abolition of the St. Lawrence-Kingston-Ottawa Pilotage District.....	893

## CHAPTER B

BRIEFS.....	897
(1) Federation of the St. Lawrence River Pilots on behalf of the Corporation of the St. Lawrence and Seaway Pilots.....	897
(2) St. Lawrence Seaway Authority.....	898

CHAPTER C

EVIDENCE.....	899
1. General Description.....	899
(1) District Limits.....	899
<i>Comments</i> .....	902
(2) Physical Features.....	903
(a) Seaway Approach and St. Lambert Lock.....	903
(b) Laprairie Basin and Côte Ste-Catherine Lock.....	904
(c) Lake St. Louis and Lower and Upper Beauharnois Locks...	904
(3) The St. Lawrence Seaway.....	904
(a) General Description.....	904
(b) Administration.....	905
(c) Regulations.....	906
(d) The Seaway Handbook.....	907
(e) Condition of Vessels for Transit.....	907
(f) Inspection of Vessels.....	908
(g) Transit Regulations.....	909
(i) Traffic control system.....	909
(ii) Proceeding in and out of the Seaway.....	909
(iii) Proceeding through the Seaway.....	910
(iv) Speed regulations.....	911
(h) Lockage Procedure.....	912
(i) Navigational Problems.....	913
(i) Currents and weather.....	913
(ii) Squat.....	913
(iii) Interference with visibility by derricks.....	914
(iv) Pleasure craft and ships not sharing the channel.....	914
(v) Linesmen at the approach walls.....	915
(vi) Cost of linesmen for approach walls.....	916
(vii) Wheelmen in ocean vessels.....	917
<i>Comments</i> .....	918
(viii) Communication between ships and Seaway bridge operators.....	919
(ix) Language problems.....	921
(j) Maintenance of the Seaway.....	921
(k) Seaway Notices and Notices to Shipping.....	922
(4) Aids to Navigation .....	923
(5) Maritime and Pilotage Traffic.....	923
<i>Comments</i> .....	927



	PAGE
(6) Rules of the Road for the Great Lakes.....	927
(a) Fog Signals for Vessels Underway and at Anchor.....	928
(b) Lights.....	929
(c) Right of Way in Rivers and Channels and Signals for Meeting and Passing.....	929
(d) Danger Signal.....	929
2. Nature of Pilotage Service.....	929
<i>Comments</i> .....	931
3. Organization.....	931
(1) Recommendation Received.....	932
4. Pilots.....	933
(1) Number of Pilots.....	933
(2) Recruiting and Training.....	934
<i>Comments</i> .....	937
(3) Pilots' Organization.....	939
(a) Finance.....	940
(4) Leave of Absence.....	947
(a) Absence due to Illness or Injury.....	949
(b) Periodic Holidays.....	949
(c) Absence to Attend Board Meetings and Transact Other Corporation Business.....	949
(5) Discipline.....	950
(6) Shipping Casualties.....	950
(a) Reports and Investigations of Shipping Casualties.....	950
(b) Remarks on Shipping Casualties.....	952
5. Pilotage Operations.....	954
(1) Boarding Areas, Pilot Stations and Pilotage Offices.....	954
(2) Pilot Vessel Service and Land Transportation.....	956
(3) Tug Assistance.....	958
(4) Despatching Procedure.....	958
(a) Assignment List.....	959
(b) Transfer of Pilots.....	960
(c) Change of Turns, Cancellations and Missed Turns.....	960
(d) Movages.....	960
(e) Complaints about the Despatching System.....	961
(5) Workload.....	961

	PAGE
6. Pilotage Revenue and Tariff.....	968
(1) Pilotage Voyage Charges (Trip Charges).....	968
(a) Basic Rates.....	968
<i>Comments</i> .....	972
(b) Winter Tariff.....	972
<i>Comments</i> .....	973
(2) Other Services.....	974
(a) Movages.....	974
(3) Indemnity Charges.....	974
(a) Detention.....	974
(b) Cancellation.....	976
(c) Transportation Allowance and Travelling Costs.....	976
<i>Comments</i> .....	976
(4) Cost of the Service to the Crown.....	977
7. Pilots' Remuneration and Pooling System.....	977
(1) Method of Remuneration and Pooling System.....	977
(a) Regular Pool.....	979
(b) Winter Pool.....	980
(2) Pilotage Income.....	981
<i>Comments</i> .....	984
8. Financial Administration.....	984

## CHAPTER D

## CHAPTER E

APPENDICES.....	987
A. Shipping Casualties, Accidents and Incidents with a Cornwall Pilot on Board:	
(1) Comparative statistical analysis during the ten-year period 1959-1968.....	988
(2) Detailed analysis for the year: (a) 1964.....	990
(b) 1967.....	992
B. Workload:	
(1) Graphs—Pilot Willie Watier: (a) May 1964.....	994
(b) September 1964.....	995
(2) Tables—(a) Comparative analysis of workload of Cornwall pilot Willie Watier, May 1964 and September 1964.....	996
(b) Comparative summary of workload of Cornwall pilot Willie Watier and busiest Cornwall pilot during busiest and least busy months.....	998
C. Monthly Trip Assignments by Cornwall Pilots:	
(1) Graph—(a) During 1963, 1964 and 1966.....	999
(b) During 1967, 1968 and 1969.....	1000
(2) Table —Aggregate number—1963-1969.....	1001

## SECTION FIVE RECOMMENDATIONS

RECOMMENDATIONS.....	1005
Recommendations Affecting the Pilotage Districts of Quebec, Montreal and Cornwall, and Lower St. Lawrence River Ports.....	1005
Preamble.....	1005
1. The Present Pilotage Districts of Quebec, Montreal and Cornwall to Be Reduced to Two Districts with a Common Boundary at Trois-Rivières and Headquarters in Quebec and Montreal Respectively; Pilotage Services between Les Escoumins and Cornwall (Snell Lock) to Continue to Be Provided on a Sector Basis by the Existing Groups of Pilots.....	1005
2. Appropriate Steps to Be Taken to Validate the Present Seaward Limit (Les Escoumins) of the Pilotage District of Quebec, and Also, as an Interim Measure, the Present Western Limit (St. Lambert Lock) of the Pilotage District of Montreal.....	1008
3. Appropriate Steps to Be Taken to Extend Westward to Snell Lock the Present Limit of the Pilotage District of Cornwall (or of the Proposed District of Montreal).....	1009
4. Pilotage in the Sector between Les Escoumins and Quebec, Including the Saguenay, to Be Classified a Public Service; Pilotage in the Other Sectors between Quebec and Cornwall (Snell Lock) to Be Classified an Essential Public Service.....	1010
Les Escoumins-Quebec Sector.....	1010
Quebec-Trois-Rivières, and Trois-Rivières-St. Lambert Lock Sectors..	1011
St. Lambert Lock-Snell Lock Sector.....	1012
5. Pilotage in the Lower St. Lawrence and Gulf Ports to Be Classified a Private Service; Persons Performing Pilotage or Willing to Pilot in This Area and Who Meet the Qualifications to Be Entitled to a Certificate of Approval from the Duly Designated Pilotage Authority.....	1012
6. Berthing and Unberthing Vessels in the Harbour of Quebec to Remain Part of the Pilotage Trip but the Rate Structure to Be Amended to Provide a Separate Berthing and Unberthing Charge.....	1014
7. The Grade System to Be Extended to All Groups of Pilots; the Exclusive Competency of Grade A Pilots to Be Established at a Very High Level to Comprise Only the Most Difficult and Extraordinary Cases; Permanent Licences to Be Issued Only when a Pilot Reaches Grade B; Grade C pilots to Receive a Temporary (Probationary) Licence.....	1018
8. The Direction of the Service in the St. Lawrence River Districts to Remain in Law, and Become in Fact, the Sole Responsibility of the Pilotage Authority of Each District; the Equalization of Trips System to Be Abandoned; Assignments to Be Made according to a Regular Tour de Rôle Based on Availability for Duty with Due Regard for Pilots' Grades and Safety of Navigation.....	1020
9. In the Proposed Districts of Quebec and Montreal, the Remuneration of Pilots (unless they are Salaried Employees) to Be a Share of a Pool Administered by the Pilotage Authority of All Pilotage Revenues Based on the Pilots' Earnings, Availability and Grades; Pilots' Corporation Expenses to Be Financed through Membership Dues Deducted at Source from the Pilots' Shares in the Pool.....	1024
10. For Purposes of Winter Tariff and Double Pilotage Assignments, the Winter Season to Coincide with the Period when Winter Conditions Actually Prevail.....	1026
11. The 1850 Act Incorporating the Montreal Pilots and the 1860 Act Incorporating the Quebec Pilots to Be Formally Repealed.....	1027

## INTRODUCTION

Part I of the Report is a study of the present state of pilotage legislation in Canada and contains the Commission's Recommendations of a general character. Parts II, III, IV and V of the Report are complementary to Part I and should be read in conjunction with it. The plan of the full Report is outlined in the General Introduction, Part I, page xxv.

Part IV reports on the pilotage situation on the St. Lawrence River as far as Cornwall, and appraises the requirement for pilotage and the adequacy of the existing organization for the provision of pilotage services throughout this first part of the waterway formed by the St. Lawrence River and the Great Lakes Basin. The plan of reporting is basically the same as in Parts II and III, i.e., one section for each Pilotage District or separate region. However, by contrast with the situation in other Districts where each pilotage service is complete by itself in that it brings incoming ships to its final destination, the St. Lawrence River Districts provide one continuous pilotage service divided for organizational purposes into contiguous sectors. Hence, it became necessary to locate the Recommendations in a separate section at the end of Part IV (Section Five). Various remarks, comments and proposals suggest how various needs can be met in consonance with the Commission's General Recommendations.

The length of the section dealing with the Quebec Pilotage District is due to the concurrence of a number of factors. The pilotage service in this District is the most ancient in Canada and has always been both the most involved and the most important. Up to the advent of railway connections with the Maritime Provinces, the St. Lawrence River was the only practical access route to the populated areas of central and eastern Canada. To realize the importance of the service, it suffices to mention that in 1860 there were 280 licensed pilots in what is now the District of Quebec. The need for organizational changes to meet new requirements was always first felt in Quebec where the problems were most acute. It was frequently not appreciated that, on account of the number of pilots, the necessity for pilotage services and the length of pilotage trips, the organization of the service in that sector



was always far in advance of the times, which made it a testing ground for new features that were later adopted elsewhere, *inter alia*, controlled provision of services, pooling of pilots' earnings, pilots' associations and corporations, apprenticeship and winter navigation.

Pilotage developed in much the same way in the Montreal District and, when the Cornwall District established its organization, it was much influenced (often wrongly) by the existing situation in the Quebec and Montreal Districts. Therefore, these subject matters were studied in detail in Section One when they were first encountered; cross references were made when they appeared again in subsequent Sections.

It is also in the Quebec and Montreal Districts that the most extensive and comprehensive evidence was adduced at the Commission's hearings by the various groups of shipowners, by the Federation of the St. Lawrence Pilots and by a number of dissident pilots.

In Part IV, the study of the By-law provisions was made as if the 1969 amendment to the C.S.A., which validates *ab initio* the ultra vires regulations, had not been enacted, because this provision of the amendment is essentially of a temporary nature (17-18 Eliz. II c. 53 sec. 7). The situation remains, therefore, basically the same, especially since the amendment did not modify the regulation-making powers of the Pilotage Authority but left them as defined in Part VI of the Act. Hence, until a new Act is enacted, it is powerless to modify these regulations that have been temporarily legalized.

The reader's attention is drawn to two subject-matters which are of general importance and to which an appropriate cross-reference should be made in Part I:

- (a) The Supreme Court of Canada in the case of *Baldwin v. Pouliot* (1969 S.C.R. 577) upheld the validity of the By-law provision which made it a regulation offence for a pilot to consume intoxicating liquor or a narcotic drug while on duty or about to go on duty (sec. 19, Quebec District By-law). This decision, therefore, negates the views expressed by this Commission on the matter in Part I, p. 395. However, the Commission's comments as to the desirability of such a drastic measure are still valid. In this case an opportunity was missed to have the basic issue passed on by the Supreme Court of Canada, i.e., the power under the Canada Shipping Act of the Pilotage Authority to act as a penal tribunal for discipline of pilots. Unfortunately, this pertinent issue was not raised by the plaintiff (Part I, pp. 373-402).
- (b) The grading of pilots is a necessary feature of pilotage organization in confined waters whenever navigational difficulties are extensive. Hence, in Part I, p. 263, where the subject-matter is introduced, a

cross-reference should be made to this part of the Report where experience with the system is analyzed (pp. 251 and ff. and pp. 673 and ff.) and to Recommendation No. 7.

As far as reasonably practicable, the pertinent statistics have been brought up to date and organizational changes since the Commission's hearings have been included.





## Part IV

STUDY OF CANADIAN PILOTAGE  
GULF AND RIVER ST. LAWRENCE



SECTION ONE	pp. 7-524
(Pilotage District of Quebec)	
SECTION TWO	pp. 526-559
(Lower St. Lawrence River Ports and Areas)	
SECTION THREE	pp. 563-867
(Pilotage District of Montreal)	
SECTION FOUR	pp. 871-1001
(Pilotage District of Cornwall)	
SECTION FIVE	pp. 1005-1028
(Recommendations)	



## Section One

PILOTAGE DISTRICT OF QUEBEC





## Chapter A

# LEGISLATION

### 1. LAW AND REGULATIONS

#### PREAMBLE

The Quebec Pilotage District (and to a lesser extent the Montreal Pilotage District) enjoys a special status as far as the law is concerned in that, on one hand, it is subject to certain special statutory provisions and, on the other, is excluded from the application of certain general provisions by the text itself or the context.

The organizational structure provided by the first federal pilotage statute, the 1873 Pilotage Act, was conceived solely in relation to ports, and the extensive pilotage conducted on the St. Lawrence River was treated in the Act as a case of exception by providing *ad hoc* provisions for the Districts of Quebec and Montreal. The present unsatisfactory state of the statutory legislation governing the Quebec District is due to the failure of those in authority to understand this essential limitation of the general provisions of the Act. Their indiscriminate and unwarranted amendments deleted most of the special provisions in an effort to make the District of Quebec conform to the other Districts under legislation that was essentially inapplicable. The other special provisions (retained largely for historical reasons) cover minor matters and are no longer justified since they are now totally out of context. In addition, they create problems for which there is no legal solution, much to the detriment of District administration. The immediate solution would be their deletion by an amendment to the Act. As a matter of fact, attempts were made in that direction, but they failed due to the strong opposition of the pilots who feared that in the process they would lose some undefined or hypothetical acquired rights (Part 1, p. 57 and pp. 111-112).

A better solution would be implementation of the Commission's General Recommendation No. 6 (Part I, p. 470), i.e., the enactment of a new Pilotage Act with provisions governing all general aspects of pilotage but leaving the particular needs of each locality to be dealt with through regulations.

The statutory provisions that apply specifically to the Pilotage District of Quebec, together with special legislation contained in various regulations, are studied in the following pages.

(1) SPECIAL PROVISIONS OF THE CANADA SHIPPING ACT AND  
ORDERS MADE BY THE GOVERNOR IN COUNCIL PURSUANT  
TO THE CANADA SHIPPING ACT

(a) *Creation of the District*

The creation of the Quebec Pilotage District as a federal Pilotage District dates from the first Pilotage Act passed in 1873 (sec. 5) which merely recognized and confirmed the existence of the District as does the present statute (C.S.A. secs. 322 and ff.).

Since its existence is confirmed and governed by a provision in the statute, it can not be abolished except by Act of Parliament. Furthermore, sec. 324 C.S.A. specifically deprives the Governor in Council of the power to rescind it (Part I, p. 57 and General Recommendations Nos. 8 and 17).

(b) *District Limits*

Sec. 322 C.S.A. also fixes its limits which are defined as follows:

"... that part of the River St. Lawrence from the western limit of the harbour of Quebec to an imaginary line drawn from the pilotage grounds off Father Point on the south shore and the anchorage grounds off Cape Colombier on the north shore of the River St. Lawrence together with those parts of all rivers, waters, harbours, creeks, bays and coves within the said limits where the tide ebbs and flows, and includes the River Saguenay."

The description of the eastern limit is clear and the only problem it may cause arises from the fact that it has not coincided with the *de facto* limit since the seaward board area was moved to Les Escoumins<sup>1</sup> (vide p. 119).

The definition of the western limit is not self contained. In order to ascertain it a search must be made for the proper description of the western limit of Quebec harbour. This is now found in the schedule to the National Harbours Board Act (1952 R.S.C. 187). It is a verbatim reproduction of sec. 6 of the "Quebec Harbour Commissioners Act 1899" (62-63 Vic. c. 34) referred to in subsec. 2(35) C.S.A. The western limit of the harbour is described therein as:

"... a line drawn from the western abutment of the roadway bridge which crosses the mouth of River Cap Rouge, in a direction S15°E astronomical, to an intersection with high water mark on the south shore of the River St. Lawrence, . . .".

On official charts the western boundary of the harbour is indicated by a line crossing the St. Lawrence from the mouth of Rivière du Cap Rouge to Pointe à Basile, i.e., about three miles west of the Quebec Bridge.

The harbour of Quebec is also part of the adjacent Pilotage District of Montreal, the eastern limit of which is the eastern limit of the harbour of

---

<sup>1</sup> The pilot station, which is located at Anse aux Basques, was named after the neighbouring village, the municipality of *Les Escoumins*. The spelling *Les Escoumains* refers to geographical features, i.e., the Les Escoumains River and the Bay of Les Escoumains, which are situated 2 miles east of Anse aux Basques. This correction should be made in Parts I, II and III of the Report where the spelling *Les Escoumains* was used.

Quebec (sec. 323 C.S.A.). Thus, the harbour of Quebec, in its entirety, is in the waters of both Pilotage Districts of Quebec and Montreal.

To ascertain the extent of the joint territory, reference must again be made to the schedule to the National Harbours Board Act where the eastern limit of Quebec harbour is defined, namely:

“... a line drawn from the east side of the mouth of the River Montmorency, directly towards the Roman Catholic church of the parish of Ste. Pétronille on the Island of Orleans, and thence produced to an intersection with high water mark on the south shore of the River St. Lawrence.”

The eastern limit of the harbour is indicated on official charts as a line originating at the foot of Montmorency Falls, crossing over the western tip of Orleans Island at the beacon of Ste. Pétronille wharf and continuing on a straight line to the south shore of the river about 15 cables east of Gilmour wharf.

It would appear that the limits of the Quebec and Montreal Districts could be altered by the Governor in Council, despite the fact that these limits are defined in the Act. The last part of sec. 324 which deals with the Governor in Council's powers in this respect would not be affected by the exception contained in the middle of this section. In the interpretation of a text, a meaning has to be found for the text as it is arranged and constructed; in this case, the restriction would not have been inserted in the middle of the section if it were to apply to all three subjects which are dealt with. Section 324 reads as follows:

“The Governor in Council may create further pilotage districts and fix their limits and may rescind any district, other than the districts of Quebec and Montreal, created either by or under this or any other Act and may alter the boundaries of any pilotage district.”

The wording of this section confers on the Governor in Council power (i) to create Pilotage Districts with a specific limitation to “further districts” meaning Districts other than Quebec and Montreal which had been previously mentioned (secs. 322 and 323) and to fix their limits; (ii) to rescind Pilotage Districts “other than the districts of Quebec and Montreal”; and finally (iii) without restriction or qualification, to alter “the boundaries of any pilotage district”. The last named power was added in 1934 and should therefore be considered an amendment to any previous legislation.

The Department of Transport, however, has always taken the attitude that the limits of the Quebec and Montreal Districts can not be modified except through amendments to secs. 322 and 323 of the Act.

The question of the extent of the jurisdiction of each of the two Pilotage Authorities of Quebec and Montreal over the joint and overlapping territory of Quebec harbour is dealt with neither in the Act nor in the By-law of either District. However, since 1964 the Montreal General By-law has contained a set of rates for movages performed in the harbour of Quebec by the Montreal pilots. It is not stated which Pilotage Authority is responsible



for providing the pilotage services that have to be performed within the harbour limits, nor is it said to which Pilotage Fund the movage dues owed by non-exempt ships that dispense with the use of pilots belong.

Prior to 1934, the situation was fully covered in the statute which placed the harbour of Quebec under the jurisdiction of the Pilotage Authority of Quebec for pilotage purposes. The Montreal pilots were permitted to use its waters only to the extent necessary to commence or terminate trips being performed or about to be performed in the Montreal District, i.e., proceeding to or from a berth in the harbour or changing pilots in the case of ships in transit. For instance, sec. 467 of the 1906 C.S.A. (corresponding to sec. 49, 1873 Pilotage Act and 447, 1927 C.S.A.) reads as follows:

“ 467. If any master of a ship which is not an exempted ship removes such ship or causes such ship to be removed from one place to another within the harbour of Quebec, without the assistance of a licensed pilot for the pilotage district of Quebec, he shall pay to the Quebec Pilots Corporation the same pilotage dues as he would have been liable to pay if he had obtained the assistance of one of such licensed pilots.

(2) This provision shall not apply to the master of any ship actually proceeding to Montreal or elsewhere above the harbour of Quebec, in charge of a pilot for and above the harbour of Quebec.”

The corresponding provision is now sec. 357 which deals with another subject altogether in a general provision covering the compulsory payment of dues for movages (Part I, p. 217.) As amendments were made, the purpose of the provision was completely changed and the problem of jurisdiction over the joint territory of the harbour of Quebec (a unique situation created by the Act itself) consequently was left without a solution. This unsatisfactory situation was the result of failure to appreciate the purpose of the former sec. 467. It was abrogated in two stages:

- (i) first, through the 1934 Act (sec. 350) when all references to the District of Quebec and the harbour of Quebec were deleted from subsec. (1) quoted earlier, making it a provision of general application dealing in general terms with the application of the compulsory payment of dues for movages;
- (ii) second, in 1956, by a further amendment (4-5 Eliz. II c. 34) when subsec. (2) quoted earlier was deleted and replaced by the present subsec. (2) of sec. 357, which deals with a different subject.

To date, no difficulty has been caused by this faulty legislation because the function of Pilotage Authority in both Districts is exercised by the same person, the Minister of Transport, who has continued to apply the former rules as if the provision which contained them had not been abrogated (vide Part I, pp. 49-50).

## COMMENTS

Rectification of the District seaward limit is covered in Recommendation No. 2, Section Five.

To define a District limit by reference to a description in another statute is unsound because legal and practical difficulties ensue, e.g., the northern limit of the New Westminster District (Part II, pp. 243 and ff.). It is quite possible that this procedure was followed in this case in order to ensure that the waters of the harbour of Quebec are always included in the Pilotage Districts of Quebec and Montreal without the necessity of amending the Act each time the harbour limits are modified, as now may be done under the National Harbours Act (subsec. 6(2)) merely by regulation. If this was the intention, it should have been expressed clearly in the law. A reference to a provision of another statute is to the provision that existed when the reference was made, unless an exception is clearly stated.

It is considered that the limits of a Pilotage District should not be defined by statute, but should be a subject-matter of regulations in order to provide flexibility for making necessary amendments easily and without delay. Such a definition should be self-contained (for further comments, vide Part II, p. 246).

For the Commission's comments and recommendations on contiguous Districts and joint territories, reference is made to Part I, pp. 49 and 50, and General Recommendation No. 9.

(c) *Pilotage Authority*

The Minister of Transport is the Pilotage Authority. The latest appointment to this office was effected by the Governor in Council pursuant to sec. 327 of the Canada Shipping Act on August 15, 1956 (P.C. 1956-1264, Ex. 1143).

Under the existing legislation, no one but the Minister of Transport (which includes the Deputy Minister (subsec. 2(69) C.S.A.)) can be appointed Pilotage Authority for the District of Quebec in view of the restriction on the general powers of the Governor in Council in this matter as stated in sec. 325 C.S.A. and the absence of other specific provisions in the Act.

The corresponding section of the 1927 version of the Canada Shipping Act contained a similar restriction concerning the four Districts of Quebec, Montreal, Halifax and Saint John, N.B. The Governor in Council was denied the right to appoint a local Commission in these Districts and the Act provided specifically for the composition of their Pilotage Authorities; for Quebec, it was the Minister in a mitigated way, i.e., with only the powers previously vested in the Harbour Commissioners of Quebec (sec. 395); for Montreal, it was also the Minister, but here again with only the powers that were exercised previously by the Montreal Harbour Commissioners (sec. 397); for Halifax and Saint John, N.B., the Act provided for local Com-



missioners and set out the procedure for their appointment or election (secs. 398 to 410 inclusive). Under these circumstances, the Governor in Council was not to interfere with the legislation affecting the Districts.

All the foregoing particular provisions were omitted in the 1934 C.S.A. Instead, the Governor in Council was authorized, if he so chose, to appoint a local Commission, both in Halifax and Saint John, N.B., as a result of the deletion of the names of these two Districts from the restrictive clause of sec. 315, now sec. 325 C.S.A. However, the restriction remained with regard to both Quebec and Montreal.

In view of the wording of sec. 317 of the 1934 Act (now 327), the Governor in Council could appoint the Minister as Pilotage Authority in all cases. In the absence of other provisions it must be concluded that, as far as Quebec and Montreal were concerned, the intention of Parliament was that the Minister should remain the Authority and that there could be no other form of Pilotage Authority for those Districts.

#### COMMENTS

When subsec. 327(1) C.S.A. is applied to the Districts of Quebec and Montreal, it appears to be meaningless since it deals with a discretionary power which does not exist for these Districts. Therefore, its applicability is questionable. The apparent cause is poor drafting when the 1934 C.S.A. was enacted. However, there is no reason why both sec. 325 and subsec. 327(1) C.S.A. should not apply to these Districts.

Prior to 1934, these provisions did not apply to the Districts of Quebec and Montreal since secs. 395 and 397, 1927 C.S.A., dealt with the question specifically by making the Minister the Pilotage Authority for both Districts. These two sections were not retained in the 1934 C.S.A. and the necessary correlation was not made in the general provisions, with the result that the legal situation was altered radically.

The problem will be solved if, as recommended by this Commission, a new Pilotage Act gives full power to the Central Authority to determine through Pilotage Orders the nature and composition of the Pilotage Authority (Part I, General Recommendations Nos. 1, 17 and 18). If it were to be decided otherwise and the provisions of sec. 325 were to be retained, the phrase "other than the districts of Quebec and Montreal" should be deleted.

#### (d) *Compulsory System*

The compulsory payment of pilotage dues is enforced in the Quebec District but no legal authority for its implementation can be found. The only provision to that effect is contained in the General By-law passed by the Pilotage Authority under sec. 329 C.S.A., P.C. 1957-191, dated February 7, 1957 (Ex. 429). Subsec. 6(1) reads as follows:

"The pilotage dues as set forth in Schedule A shall be paid in respect of all vessels unless exempted by the Act or by By-law."

Neither under sec. 329 C.S.A. (which does not cover the subject), nor under any other provision of the Act, has the Quebec District Pilotage Authority the power to impose this obligation on shipping.

It must either be provided for in the law or made a privilege of the Governor in Council. Through an exception resulting from the combined effect of secs. 324 and 326 the Governor in Council is denied this power for the Pilotage Districts of Quebec and Montreal, these not being Districts that he has the power to create. In fact, no decision of the Governor in Council on the subject has ever been promulgated through Order in Council.

Therefore, the authority for the compulsory payment of dues for the District of Quebec, if any exists, ought to be found elsewhere; however, there is at present no such provision in the Canada Shipping Act (Part I, p. 212).

Prior to 1934, the Canada Shipping Act specifically prescribed the compulsory payment system for the four Districts of Quebec, Montreal, Halifax and Saint John. The first part of sec. 455 of the 1927 Shipping Act reads as follows:

"455. Every ship which navigates within either of the pilotage districts of Quebec, Montreal, Halifax or Saint John, or within any pilotage district within the limits of which the payment of pilotage dues is, for the time being, made compulsory by Order in Council under this Part shall pay pilotage dues, unless . . ."

In the 1934 C.S.A., which repealed the previous legislation, the reference to the four Districts was deleted and the corresponding section reads as follows:

"337. Every ship which navigates within any pilotage district within the limits of which the payment of pilotage dues is, for the time being, made compulsory under this Part of this Act shall pay pilotage dues, unless . . ."

Sec. 345 of the 1952 C.S.A. is almost a verbatim reproduction.

The reference to the four Districts in sec. 455 of the 1927 C.S.A. was necessary because of the limitation contained in sec. 412 of the same Act, of which sec. 326 of the 1952 C.S.A. is, except for a point of style, a verbatim repetition. This section has remained unchanged in the various Acts from the first Pilotage Act of 1873, where it was sec. 17; sec 13 of the 1886 Act; sec. 430 of the 1906 Act; sec. 412 of the 1927 Act; sec. 316 of the 1934 Act and sec. 326 of the 1952 Act. The 1934 C.S.A. abrogated the previous statute. The saving provision of sec. 717 had no application because the compulsory payment system was not a matter for by-law or regulation but was part of the law that was repealed.

Sec. 331 C.S.A. is not pertinent because it merely provides for the continuation in force of a "valid and effectual by-law made by any pilotage authority prior to the 1st day of August, 1936". There could have been no such valid by-law because then, as now, the Pilotage Authority did not have the power to make by-laws respecting the compulsory payment of pilotage dues.

Therefore, one must conclude that since 1934 the payment of pilotage dues has not been compulsory in the Pilotage District of Quebec whenever the services of pilots are not used or requested.

This situation has been known for some time by all concerned. The question was publicly raised before the Standing Committee of the Senate on Transport and Communications, on February 25, 1959, in connection with Bill S-3 to amend the C.S.A. On p. 209 of the Committee proceedings of that date, Mr. J. R. Baldwin, then Deputy Minister of Transport and Pilotage Authority for the District of Quebec, summed up the situation as follows:

"I would merely state that this particular situation, which is one that has emerged through our study of the present Bill, was that there was under the 1927 version of the Canada Shipping Act a specific provision which supported the payment of compulsory pilotage dues in those two districts (Montreal and Quebec), for reasons not known to me, as this antedates our field of study. This subsection was omitted in the 1934 revision of the Act, and our legal opinion after checking other statutes is that it is exceedingly questionable in law, therefore, whether there is any legal basis at the present time for the compulsory payment arrangements that exist now in those two districts."

Re exemptions, see pp. 20-21.

(e) *Quebec District Pilot Fund (subsec. 319 (1) and secs. 366 to 370 incl., 1934 C.S.A.)*

Subsec. 329(1) and secs. 373 and 374 of the 1952 C.S.A. are not as yet in force, not having been proclaimed by the Governor in Council as required by sec. 734 C.S.A. The proclamation of these sections would have the effect of deleting from the statute all the provisions concerning the special status of the Quebec District Pilot Fund and of bringing it in line with the other Districts as far as the applicable statutory provisions are concerned. In accordance with sec. 735 C.S.A., the sections of the 1934 C.S.A. dealing with the Quebec Pilot Fund remain in force in the absence of the required proclamation, i.e., subsec. 319(1) and secs. 366 to 370 inclusive which provide that the Fund continues to be administered by the Corporation of Pilots for and below the Harbour of Quebec which enjoys, in that respect, the rights and powers of the defunct Quebec Trinity House (Part I, p. 16, C. 10 and Gen. Rec. No. 39).

The Pilot Fund (referred to in the District By-law as Pension Fund) is administered by the Corporation of Pilots for and below the Harbour of Quebec. Earlier, this Corporation had, in addition, the management of the pilotage service in the District. The passage of the 1934 C.S.A. marked the completion of the withdrawal of these managerial powers leaving the Pilots' Corporation with the sole function of administering the Pilot Fund.

In 1950, an amendment to the C.S.A. (14 Geo. VI c. 26 which was subsequently incorporated in the 1952 consolidation) represented the final step in the practical abolition of the Quebec Pilots' Corporation by transferring the administration of the Pilot Fund to the Pilotage Authority. However,



the implementation of these provisions was left to the discretion of the Governor in Council which he has not exercised to date.

Under the legislation now in force, three persons, in addition to the pilots and the beneficiaries, play a distinct rôle with regard to the Pilot Fund:

- (i) the Pilotage Authority, who determines the amount of the compulsory contribution which shall not be less than 5 per cent of the gross receipts of the District (sec. 367 (1934) C.S.A.);
- (ii) the Corporation of Pilots for and below the Harbour of Quebec, which in 1875 by 38 Vic. c. 55 sec. 4 was vested with "the same rights and powers that the Trinity House of Quebec" had heretofore, i.e., on April 8, 1875 (sec. 368 (1934) C.S.A.), and whose powers were modified by sec. 369 (1934) C.S.A. which restricted its investment powers to "such securities as are by law approved for the investments of money by trustees";
- (iii) the Minister of Transport, to whom the Corporation shall account for its administration within seven days after the first day of February in each year (sec. 370 (1934) C.S.A.).

The fund that was entrusted to the Quebec Pilots' Corporation is designated in sec. 368 (1934) C.S.A. as the one "created by the Act of the late Province of Canada, 12 Vic. c. 114 (Quebec Trinity House Act) and other Acts relating thereto" (Ex. 703), where provisions for the fund are as follows:

- (i) that the Decayed Pilot Fund would continue to exist and be administered by Trinity House (sec. 56);
- (ii) that from this fund Trinity House would give to every "distressed or decayed" pilot, his widow and children whatever relief or pension Trinity House deemed advisable (sec. 61);
- (iii) that any pilot who retired after reaching the age of 60 would be entitled to a pension from the fund (sec. 62);
- (iv) that the monies that had not been spent for the relief and subsistence of decayed pilots, their widows and children were to be invested.

It was left to the discretion of Trinity House to determine the amount of relief or pension which should be paid, and the terms and conditions upon which the beneficiaries were entitled to relief or pension were not subject to the formal by-law procedure of Trinity House which required the assent of the Governor after publication in the press (secs. 6, 7 and 8). With the transfer of powers in 1875 it then became a discretionary power to be exercised by the Pilots' Corporation.

However, the Pilots' Corporation regulated the entitlement to benefits and fixed their amount (By-law No. 2, Ex. 672). Pensions were provided for retired pilots and also for pilots' widows and orphans. No relief, however, was provided for "distressed" active pilots.

(2) PROVISIONS NOT CONTAINED IN THE CANADA SHIPPING ACT AND  
AFFECTING THE ORGANIZATION OF THE PILOTAGE DISTRICT

(a) *The Corporation of Pilots for and below the Harbour of Quebec Act*  
(23 Vic. c. 123 (1860) as amended)

This is a closed professional corporation, created by an Act of Parliament of the late Province of Canada, to which all the licensed pilots for the District of Quebec automatically belonged. Originally, the Corporation had the actual management of the pilotage service and of the compulsory pooling of the pilots' earnings but these powers were repealed in 1914 by 4-5 Geo. V c. 48 leaving it with only the administration of the Decayed Pilot Fund that it had inherited from Trinity House in 1875, as seen earlier.

The Corporation still functions for that sole purpose and all the licensed pilots are still automatically members. The rules for its administration are contained in its General By-law No. 1 (Ex. 672) which is subject to the amendment procedure set out in the 1860 Act, *inter alia*, to the sanction of the defunct Quebec Trinity House.

The Act also contained other provisions concerning the right of the Master to choose his pilot from those available on the list of assignment, the pilot so chosen not having the right to refuse irrespective of the number of trips he might have done, and the right of the Montreal Oceanic Steamship Company to choose four special pilots annually. These privileges were enumerated in secs. 31, 32 and 33 of the Act and were reaffirmed in the 1869 amendment (32-33 Vic. c. 43). These sections of the Pilots' Corporation Act have never been repealed and would appear to be still in force. (Vide also Part I, p. 18 and pp. 77 and ff.)

(b) *Payment of District Operating Costs*

In the Quebec Pilotage District the costs of establishment and operation, maintenance and replacement of the pilot stations and the costs of purchase, replacement and maintenance, operation and repair of pilot vessels are borne by the Crown through the Department of Transport. The only authority for the practice is contained in the annual Appropriation Acts. The District of Quebec is not mentioned in Treasury Board Minute 546571 of Aug. 27, 1959, P.C. 1959-19/1093 (Ex. 52) approving payment of these operating costs in other Pilotage Districts.

(3) PILOTAGE AUTHORITY'S ENACTMENTS APPROVED  
BY GOVERNOR IN COUNCIL

(a) *Appointment of Secretary-Treasurer and Payment of District Expenses*  
(sec. 328)

The Pilotage Authority in the District of Quebec has not the right to pay any of the operational costs of the District out of pilotage monies; it can

neither appoint a Secretary-Treasurer nor pay him a remuneration out of District earnings.

This unique situation is the result of a specific restriction contained in sec. 328 C.S.A. which excepts the Quebec Pilotage Authority from those who can exercise these powers. Therefore, in the Quebec District the Pilotage Authority must not incur any expenses and, if it incurs any, must find means to meet them other than pilotage monies which have to be turned over in their entirety (less Pension Fund deduction) to the pilots. This restriction was the consequence of a system that no longer exists but it was not through an oversight that sec. 328 was left unchanged when, on the occasion of the revision of the C.S.A. in 1934, what remained of the special organizational system of the Quebec District was done away with.

To appraise the situation the historical evolution of the legislation must be reviewed (Part I, p. 111).

At the time of Confederation, the Quebec District was the oldest and most important Pilotage District in Canada. It had over 280 pilots and its pilotage service was controlled jointly by two local public corporations, each one in its own field. On one hand, Trinity House was in charge of navigation on the River St. Lawrence up to and including Quebec Harbour. Administration of pilotage was only one of its functions and its rôle in this field was merely one of licensing, surveillance, rate-fixing and making the necessary regulations. To this was added the rôle of a full fledged court over all disputes regarding pilotage, either between pilots or between pilots and Masters and others. On the other hand, the pilots of the Corporation of Pilots for and below the Harbour of Quebec had the executive part of the service and its management. Trinity House incurred few expenses as far as pilotage was concerned and, in any event, had other sources of revenue. Therefore, it had no justification for becoming involved with pilotage monies (except with the Decayed Pilot Fund which it administered at that time). The Pilots' Corporation, on the other hand, provided at its own expense the pilot schooners at the seaward station of Bic and, through its administrators, was responsible for the orderly despatching of pilots, the collection of dues and their distribution in equal shares through a pool system, the first deductions from which were operational costs, i.e., District operational costs. The Secretary-Treasurer, who was one of the Pilots' Corporation's own appointees, was remunerated out of the earnings of the pool.

Trinity House and the Pilots' Corporation were both governed by special Acts of Parliament.

This was the situation at the time of Confederation. When the first Pilotage Act was passed in 1873, special provisions were inserted to recognize the Quebec District's own organization together with those of three other Districts, i.e., Montreal, Halifax and Saint John, N.B., the organizational systems of which, however, were quite different.



Two years later, it was felt necessary to amend the Act to authorize the various Pilotage Authorities to pay their operating expenses out of the pilotage monies which belonged to the pilots without having to seek the pilots' unanimous consent. An exception was made of the Quebec Pilotage District, to which the provision could obviously not apply, through sec. 3 of c. 28 of the 1875 statute, and it has been reproduced verbatim ever since. What is now sec. 328 was sec. 14, 1886 Act, sec. 431, 1906 Act, sec. 413, 1927 Act and sec. 318, 1934 Act.

To illustrate the earlier situation, sec. 91 of the 1873 Pilotage Act is worth noting. It reads as follows:

"Nothing in this Act shall be construed to give power to the Trinity House of Quebec to make regulations respecting the management or maintenance of pilot boats, or respecting the administration or distribution of the earnings of pilots and pilot boats, save and except insofar as relates to the administration of the Pilot Fund."

In 1875, Trinity House was abolished and replaced as Pilotage Authority by the Harbour Commissioners of Quebec (38 Vic. c. 55). In the Pilotage Act of 1886, subsec. 2 of sec. 15 reproduced the same limitation *mutatis mutandis*.

In 1905, by an amendment to the Quebec Harbour Commissioners Act (4-5 Ed. VII c. 34 sec. 2) the Harbour Commissioners were relieved of their duties as Pilotage Authority and superseded as such by the Minister of Marine and Fisheries, who inherited all their powers as such and no more (except the obligation to sit as a tribunal over pilotage infractions and disputes). This change was reflected in sec. 413 of the 1906 C.S.A. and the usual restriction was retained in subsec. 434.2:

"Nothing in this Part shall be construed to give power to the Minister to make regulations respecting the management or maintenance of pilot boats, or respecting the administration and distribution of the earnings of pilots and pilot boats."

The appointment of the Minister as Pilotage Authority was, however, the beginning of the slow process of transforming the Quebec special organization to conform with that of the other Districts. In 1914 following the Lindsay Report, 4-5 Geo. V c. 48 deprived the Pilots' Corporation of its powers, duties and responsibilities "with respect to the examination, management and control of pilots and pilot apprentices, and the control and management of pilot schooners, boats and other vessels, the collection of pilotage dues, and the management and the control of pilotage". These powers were vested in the Minister of Marine and Fisheries. The result was that the basic structure had not as yet been altered. The Pilotage Authority still retained a mere regulatory and supervisory role and the management of the service was still entrusted to someone else, i.e., the Minister as such, in lieu of the Pilots' Corporation. The fact that the same person, the Minister of Marine and Fisheries, filled both the office of Pilotage Authority and that of administrator and manager of the service did not mean that these extra powers were

given to the Pilotage Authority. These were kept two separate functions as the 1927 Act clearly indicates: by sec. 395 the Minister remained the Pilotage Authority with the same limitation as to powers, and the distinction between the two functions of the Minister regarding the District of Quebec was evident in the practice of substituting the name of the Minister for the name of the Pilots' Corporation (except for the Pilot Fund) as in sec. 460 and sec. 462 dealing with the collection of the dues which then read:

"shall be liable to pay, if in the Pilotage District of Quebec, to the Minister, and, if elsewhere, to the Pilotage Authority of the District . . . ."

It was the Minister who might select the pilots to be Masters of the pilot schooners, who could pay the Directors of the Corporation and Masters of the schooners their usual extra remuneration but still out of the fund of the Quebec Pilots' Corporation (secs. 491 and 492, 1927 C.S.A.).

With the advent of the 1934 C.S.A., sweeping changes were made and all these distinctions were omitted. The section dealing with the Pilotage Authority for the District of Quebec was omitted, as were the provisions dealing with the special powers of the Pilots' Corporation that were exercised by the Minister. The dues were no longer payable to the Minister but, as everywhere else in Canada, to the Pilotage Authority (secs. 341 and 343). The only responsibilities and powers left to the Pilots' Corporation were those involving the trusteeship and administration of the Pilot Fund.

As of 1934, the Pilotage Authority for the District of Quebec was, therefore, given the same limited powers and responsibilities as the Pilotage Authorities of the other Districts. However, the Authority for the District of Quebec was deprived of the right to use pilotage monies for pilotage administration since Parliament had decided to retain the restriction which is now found in sec. 328 of the Act (sec. 318, 1934 C.S.A.). A provision which had been an obvious necessity before then made it impossible for the Pilotage Authority to meet the expenses involved in administering pilotage in this District unless it was intended that the Quebec District should benefit from the special privilege of always having its operational costs paid by the Crown (as was, in fact, the case and has been so ever since). The words "other than the Pilotage District of Quebec" had been omitted from the first draft of the 1934 Act, but the Quebec pilots succeeded in having them reinserted on the ground of an engagement made to them by the Minister of Marine and Fisheries in 1906 (pp. 50-52) to the effect that the Quebec Pilotage District's operational costs were to be paid out of public funds from then on (Senate debates, 1933).

As to the right to appoint a Secretary-Treasurer, this could be done indirectly through sec. 317 (now sec. 327 C.S.A.), i.e., a delegation of power effected to the Superintendent or to any other person by by-law sanctioned by the Governor in Council, but his remuneration could never be drawn from the District earnings.

COMMENTS

There is no valid reason at present to retain this exception in sec. 328 C.S.A. With regard to the payment of the operating expenses of the District and of the service, there should be no discrimination in favour of the District of Quebec. Financial assistance from public funds should be governed by general statutory provisions which should apply to all Districts, the public interest being the criterion. It is considered that this aim would be met if the Commission's General Recommendations Nos. 20 and 21 are implemented (Part I, pp. 521 and 524).

(b) *Delegation of Pilotage Authority's Powers (subsecs. 327 (2) and 329 (p) C.S.A.)*

No specific by-law has ever been made by the Minister as Pilotage Authority for the District of Quebec pursuant to subsec. 327 (2) C.S.A. for the purpose of delegating some of his powers to his local representative, the Superintendent, nor to anyone else. The Pilotage Authority, however, acting under subsec. 329(p) has created at the District level through provisions in its General By-law the office of Superintendent, called locally the "Supervisor of Pilots" (vide definition of Superintendent, subsec. 2(b) General By-law, Ex. 429). He is the Authority's local representative to whom are delegated the powers of actual management of the service at the local level, i.e., handling the pilotage earnings, the assignment of pilots and some limited disciplinary powers.

The selection of a Superintendent for Quebec, as elsewhere, is effected by the Public Service Commission filling a vacancy in the Department of Transport establishment. This selection has never been followed by an appointment emanating from the Pilotage Authority, nor was there any delegation of powers from the Pilotage Authority to the Public Service Commission to do this in its stead. To be valid, such a delegation, according to either subsec. 327(2) or subsec. 329(p) C.S.A. would have to be confirmed by Order in Council (vide Part I, pp. 289 and ff.).

(c) *Exemptions and Withdrawal of Exemptions (secs. 346 and 347 and subsec. 357 (1) C.S.A.)*

No By-law was made under subsec. 357(2) C.S.A. and there is no By-law of the Pilotage Authority made pursuant to either sec. 346 or sec. 347 C.S.A. still in force. The last one was P.C. 3415 of July 19, 1950, which was passed and approved under both secs. 319 and 339 of the 1934 C.S.A. (now 329 and 347 of the 1952 C.S.A.). This Order in Council which amended the General By-law of 1928 (Ex. 1448) was abrogated when the existing General By-law was approved.



In the existing General By-law made and approved pursuant to sec. 329 C.S.A., the question is dealt with as follows:

- (i) By subsec. 6(2), the relative exemptions provided by subsec. 346(e) of the Act concerning dominion registered steamships engaged in inland or coastal voyages are partly withdrawn. Full exemption is limited to vessels under 2,000 tons, and to those, whatever their tonnage, regularly plying inland waters and not beyond the eastern limit of the District. Vessels between 2,000 tons and 2,500 tons proceeding outside this limit but not beyond the Gulf are required to pay half dues if a pilot is not employed.
- (ii) Scows are specifically exempted by subsec. 2(n) of the By-law which states "vessel includes ships and ships in tow but does not include scows."
- (iii) No exemption is provided for small vessels under 250 tons as permitted under subsec. 346(c). Therefore, any small foreign ships of non-dominion registry, even yachts however small, are subject to the payment of dues (D.O.T. letter dated August 9, 1965, Ex. 1456(s)).

These provisions, however, are not effective since the payment of dues is not compulsory in the District (p. 14). (Re failure to quote the correct statutory authority, the meaning of the term *relative exemption*, the illegal extension of the application of Part VI C.S.A. by the device of the definition and use in the By-law of the expression vessel, vide Part I, pp. 248, 221 and 219 respectively.)

(d) *General By-law Passed under Sec. 329 C.S.A.*

The General By-law (Ex. 429) now in force was sanctioned by Order in Council P.C. 1957-191 dated February 7, 1957, which was subsequently amended as follows:

- P.C. 1959-1605, dated December 18, 1959;
- P.C. 1960-756, dated June 2, 1960;
- P.C. 1960-1601, dated November 25, 1960;
- P.C. 1961-425, dated March 23, 1961;
- P.C. 1964-1769, dated November 13, 1964;
- P.C. 1965-1172, dated June 23, 1965;
- P.C. 1966-779, dated April 29, 1966;
- P.C. 1967-698, dated April 13, 1967;
- P.C. 1969-1182, dated June 10, 1969.

The salient features of the internal organization provided in the General By-law, as amended, are as follows (references are to Part I where the subject-matter is dealt with):

- (i) The Pilotage Authority, in addition to its normal powers to regulate and supervise, also directs the service through its local

representative, the Superintendent, i.e., distribution of work, collection and distribution of earnings, direction of pilots and apprentices, etc. (pp. 73 and ff.).

- (ii) The pilots are represented by a "Pilots' Committee" of six elected annually (pp. 82-84).
- (iii) Pilots are recruited from candidates with prerequisite qualifications through an elaborate apprenticeship system (p. 252).
- (iv) The number of pilots is determined by the Authority after consultation with the Pilots' Committee. The criterion is an annual workload of 70 trips per pilot (p. 257).
- (v) Pilots are purported to be classified as to capacity in four grades (p. 263). Temporary licences may be issued in an emergency (p. 270).
- (vi) The work is to be evenly distributed by the Superintendent through a despatching system based both on tour de rôle and pilot grades, with an assignment equalization rule (pp. 73 and ff.).
- (vii) No system of regular leave is provided and leave can be taken at the pilot's discretion with the Superintendent's authorization.
- (viii) The dues, although collected by the Authority, belong to the pilot who has earned them less the compulsory contribution to the Pension Fund. Consequently, there is no pooling of earnings at the Pilotage Authority level (pp. 84 and ff.).
- (ix) The basic dues are computed on draught, tonnage and distance. The minimum draught for this purpose is set at 16 feet. There is a minimum of 2,000 tons and a maximum of 15,000 tons. There are two surcharges, the first for vessels over 10,000 tons or other vessels as the Authority may designate (Grade A pilots), and the second for winter voyages. The pilot boat charge at Les Escoumins is made a pilotage due for collection purposes. It is \$20 payable to the Receiver General of Canada through the Pilotage Authority (C. 6).
- (x) No mention is made of the Pension Fund, except to make it mandatory for the Authority to retain and pay into the Fund compulsory contributions and dues collected when no pilotage services have been performed (pp. 98 and 99, and C. 10).
- (xi) Vessels are required to give a minimum three-hour notice of requirement for a pilot (p. 230).

The grade system no longer exists legally in the Quebec District and all the pilots are now holders of the same unrestricted licence. Since the date they were declared to be *ultra vires* by the Exchequer Court, the By-law provisions purporting to institute the grade system are as inoperative as if

they had been repealed. The pertinent paragraph of the Exchequer Court's judgment in the case of *Gamache v. Jones et al* (Exchequer Court file No. B1334) rendered October 10, 1967, reads as follows (Ex. 1521 (b)):

"Judgment should and is therefore hereby issued declaring that section 15 (2a) of P.C. 1960-756 as amended by P.C. 1961-425, section 24 (1) and 24 (5) of P.C. 1960-756 (which revoked section 24 of P.C. 1957-191, the Quebec Pilotage District General By-law) are *ultra vires* of the powers of the Governor in Council and, therefore, invalid and that consequently plaintiff has the right since July 9, 1948, when he was licensed as a pilot to be a fully licensed pilot for the District of Quebec, to be treated as such and to be granted every right attending thereto including the right to pilot ships and vessels of any tonnage within the said pilotage district of Quebec."

This part of the Exchequer Court judgment was affirmed in appeal by the Supreme Court of Canada in a judgment pronounced October 1, 1968 (Ex. 1521(c)).

For the Commission's views on the grade system, reference is made to Part I, pp. 263, 264, 354 and 360. The Commission favours the grade system and considers that the proposed Pilotage Act should make it permissible.

## 2. HISTORY OF LEGISLATION

### (1) FRENCH PERIOD (1608-1760)

The history of pilotage is closely related to the history of Canada. The founding and development of the French colony at Quebec were rendered possible by the existence of the St. Lawrence River, which made the colony accessible to France upon which it almost entirely depended. This meant a constant movement of vessels between Quebec and France. Due to the lack of other means of communication the new colony developed along its navigable water courses and travel, therefore, involved navigating in restricted waters where conditions and hazards unknown to navigators on the high seas were met and where the assistance of persons familiar with the features and peculiarities of the rivers was a prime necessity.

From the earliest days of Quebec history it was the constant preoccupation of the Government to maintain a qualified group of pilots. When the Jesuits founded their college at Quebec in 1635, hydrography was one of the subjects taught. A few years later Intendant Talon requested the extension of the hydrographic course on account of the expected growth of the colony and the anticipated need for ships' captains to be well versed in that subject. In 1685, the need was urgent—five pilots had died in the three previous years—and further measures were taken to encourage these studies. For a number of years the course was given by lay teachers and finally by a series of Jesuits commissioned "Regius Professors of Hydrography". In 1717, the Council of Marine in France granted them authority to issue pilot certificates. In 1696, Governor Frontenac secured the appointment of Louis



Jolliet as *Teacher of Hydrography*. It was said of Jolliet that no man could better pilot a ship down the St. Lawrence and through the Gulf (*Hydrography at Quebec 1651 to 1759*, M. W. Burke—Gaffney, S. J., Ex. 1456(c)). In 1729, Testu de la Richardière, Port Captain of Quebec, was entrusted with the duty of training other pilots by taking them aboard the vessel he was piloting.

By an Ordinance of the "Intendant Gilles Hocquart" (Civil Administrator), on May 22, 1731, Sieur la Richardière was ordered to proceed, accompanied by Mr. Pierre Dizet, pilot, with "la gouëlette du Roy" *Thomas Marie*, and to make a survey of both north and south shores of the River St. Lawrence in order to find anchorage areas, to make soundings and record other observations that they deemed advisable for the safety of navigation of the King's vessels (Ex. 1466(o)).

There is some controversy about who was the first pilot in Quebec. In 1922, Mr. Pierre-Georges Roy, Provincial Archivist, in his searches through the Public Archives came across two private documents, dated 1646 and 1647, in which Abraham Martin of Quebec was described as "Royal Pilot in this country" and "Pilot of the River" (Ex. 1456(a)). Although there are no records to prove conclusively who was the first pilot on the St. Lawrence, it is said that Abraham Martin was the first Royal or King's pilot. His appointment is dated December 28, 1647, two years after he was granted land outside Quebec City, now known as the Plains of Abraham. Cape Martin on the lower St. Lawrence is also named after him. In May 1922, Canadian Pacific Steamships Limited erected a monument to his memory in Princess Louise Basin. References to the occupation of pilot are encountered in deeds and documents which designate and identify various individuals, e.g., the Marriage Registry shows that in 1634 a Noël Langlois, Pilot, married in Quebec (Ex. 1456(b)).

In the seventeenth century, there were three classes of pilot: *Hauturier*, *Côtier* and *Lamaneur*. The *Hauturier* pilot, the deep-sea pilot, also called "proper pilot", was a member of the crew, the second in authority after the Master. He was a fully qualified expert in charge of navigation aboard his vessel giving orders to the wheelsman, setting courses, keeping logs, etc. The prime qualification of the second group, called coastal pilots or, at Quebec, river pilots, was their knowledge of the coast, rivers and harbours. They did not navigate by compass and other instruments but by direct observation of the coast, shores and harbour features, so much so that it was said that in darkness and in fog there were no coastal pilots. They were not part of the complement of the vessel. The third category, the *Pilot Lamaneur* or *Locman*, was strictly a harbour pilot. It is said that his importance was secondary because when he was not available a fisherman could be used in his stead (Ex. 1456(b)). At that time, only the two first categories were at Quebec:

deep-sea pilots and river pilots, the latter being required to perform berthing, unberthing and movages in the harbour of Quebec as they still do.

When ships became larger, both in size and draught, river pilotage became a necessity. In the early part of the eighteenth century, an official acquainted with the navigation of the St. Lawrence boarded the King's ships and brought them to Quebec, and in 1731, for the first time, an official pilot was appointed by the Governor and was sent each season thereafter to a seaward boarding station, Isle Verte, to await the arrival of ships.

## (2) SUPERINTENDENT OF PILOTS AS PILOTAGE AUTHORITY (1760-1805)

With the English regime, pilotage became more strictly regulated by public administration. In various Acts, in addition to the requirements for the licensing of pilots, directives were included concerning the maintenance of the service, the conduct of pilots, their welfare, the tariff, etc. These Acts also contained stipulations regarding aids to navigation and rules and regulations for ships while in the harbour of Quebec.

In order to ensure that the provisions of the law were applied two new offices were created: Superintendent of Pilots and Captain of the Port.

The Superintendent of Pilots was responsible for safe navigation on the river; he had to place the buoys, erect and maintain aids to navigation, take soundings, etc., but his main duty was to ascertain that the pilots were performing the duties required of them by the law. He had the right to give them orders in this respect and, in case of disobedience or violation of the regulations by the pilots, it was his responsibility and duty to prosecute them. As far as the pilots were concerned, he was, in fact, what was later to be known as the Pilotage Authority.

The Captain of the Port was responsible for the harbour of Quebec. He had to make sure that the stipulations in the Act concerning the harbour were observed and it was his duty to prosecute any offenders.

The first ordinance was issued June 24, 1762, during General Murray's governorship in the early years of the English occupation of Quebec (Ex. 1456(d)(1)). Its scope is seen in the preamble which reads as follows:

"By the Honourable James Murray, Esq., Governor of Quebec; Rules and Regulations to be observed by all Masters or Commanders of Vessels Sailing up or down the St. Lawrence to Quebec, the Branch Pilot and all other Pilots who have passed examination and have Certificates from me."

The Governor first stated that "For the ease and Conveniency of the Trade, and at the Request of the Principal Merchants of this place" he had appointed a branch pilot for the River St. Lawrence. In a report he wrote the same day he gave further details: he considered that a number of pilots were necessary for navigation up and down the river St. Lawrence and he had

appointed Mr. David Allegeo to "oversee and direct this useful branch of business. . . he is to inspect the same and operate under the rules and regulations set by his superiors."

The main features of the ordinance were the following: the establishment of two boarding and pilot stations, one at Bic to be manned from the beginning of the season to the middle of October, and the other at Ile aux Coudres to be manned till about the middle of December by pilots who would take charge of vessels from there to Quebec; pilotage was not compulsory but part payment of pilotage dues was demanded in the second section of the River, i.e., from Ile aux Coudres to Quebec, in that vessels which arrived at Quebec without a pilot aboard had to pay half the dues from Coudres to Quebec; vessels following the lead of a vessel with a pilot aboard saved one half the dues; Masters were requested to assist the pilots, to follow their directions when to weigh and where to anchor, and were not to oblige them to run any risk; pilotage dues were paid in Quebec both for inbound and outbound trips; the "person in charge" was to provide at his own expense a small vessel to carry pilots between Quebec, Coudres and Bic and his remuneration consisted of one fourth of the dues earned by the pilots and the whole of the dues paid by vessels that came up the River without pilots.

Governor Murray's ordinance was soon replaced by a more elaborate one issued by Governor Carleton, promulgated May 5, 1768 (Ex. 1456 (d) (2)). The basic organization was not substantially changed but the regulations were more detailed, no doubt to meet difficulties that had arisen.

The "person in charge" of the pilots and of safe navigation on the River is now called for the first time the *Superintendent*; the pilots are grouped by station, about 8 to 10 at Bic and at least 10 at Coudres, and the dues are pooled separately at each station for the benefit of all the pilots of the station, except a 25% deduction for the remuneration of the Superintendent; the dues are now payable in all cases after the completion of the service and are collected at Quebec by the Superintendent and by the pilot upon disembarking after the downbound trip; a premium is paid to the pilot who used the South Channel; the pilots are divided in three categories as to qualifications, i.e., those qualified for the stretch from Bic to Coudres, those from Coudres to Quebec and those fully qualified for the whole of the River; the branch or commission of every pilot has to mention for which of the two channels the pilot has passed his examination; the compulsory payment system is extended to the whole area, i.e., from Bic to Quebec; a new charge is levied on vessels for the cost of installation and maintenance of aids to navigation, i.e., buoys placed at the St. Roch Traverse.

The administration of the service was not without difficulties as evidenced by an entry in the Quebec Gazette of 1769. William Hogg, Master of a British warship, complained that two sloops had to take ten days to travel between Bic and Coudres because no pilots could be found, and the only one



they saw turned them down for a larger assignment. Captain Hogg gave the sloops assistance by putting seamen on board to act as pilots until they were able to obtain regular pilots at Coudres (Quebec Gazette 1769, No. 257, November 30, 1769).

In 1788, Governor Dorchester issued a further ordinance (28 Geo. III c. 5) dealing with two matters as indicated by its title:

"An Ordinance for regulating the Pilotage in the River St. Lawrence, and for preventing Abuses in the Port of Quebec."

The internal organization of pilotage was modified in order to provide better service and a greater number of pilots to meet the increasing demand and with, for the first time, a regulated system of apprenticeship. The organization was based on working units of pilots, i.e., *companies* each composed of two pilots equipped with a suitable pilot boat and compelled to have at least one apprentice. The number of apprentices per company was not limited. When the apprentice joined the company he had to be between 14 and 16 years of age, and was to serve as such until he reached 21 years of age. After four years of apprenticeship, however, he could act as pilot for the benefit of his masters provided he had secured certificates of competency from the Superintendent and from two experienced pilots, other than his masters, and, thereafter, had been licensed by the Governor. On the other hand, the company was obliged to instruct the apprentices in all aspects of pilotage.

No fewer than four boats with their full complements had to ply constantly at Bic in rotation from April 25 to November 15, under the direction of the Superintendent, and their pilots were to be ready to conduct ships and vessels upriver. The Masters of vessels had the privilege of choosing from the first pilot boat that hailed them any of the pilots in the boat but, on the other hand, the pilots were not to give any preference to any vessel but had to board the nearest one. The pilot's licence automatically lapsed after one year's non-usage. The pilots were given the right of appeal against the disciplinary decisions of the Superintendent before Commissioners of the Peace in the weekly court.

The ordinance also contained numerous clauses regulating the conduct of vessels in the harbour of Quebec, e.g., anchorages, berthing, the disposal of ballast, lighting fires for heating pitch.

The penal aspect of the legislation clearly appears in the additional provision which made it the duty and responsibility of both the Superintendent of Pilots and the Captain of the Port to see, each in his own sphere, that the provisions of the ordinance were carried out and that offenders were prosecuted, failing which they themselves were liable to a penalty of twenty shillings for every wilful act of neglect on their part to perform this duty.

In their Brief to the Commission the Federation of St. Lawrence River Pilots expressed the opinion that one consequence of the 1788 ordinance was the creation of an excessive number of pilots and, as a result, lower revenue

for each pilot. This is not borne out by the facts since it will be seen later that in 1802 there were only 49 pilots for the section of the River below Quebec and the scarcity of pilots became so acute that emergency measures had to be taken in 1812 to recruit more pilots. The ordinance did not facilitate access to the profession which was open and remained so, but it controlled access by making apprenticeship a prerequisite.

Neither the 1788 ordinance nor the previous ones made any mention of pilotage between Quebec and Montreal, for the obvious reason that, at that time, Quebec was the only harbour on the St. Lawrence at which ocean-going vessels called. Water transportation between Quebec and Montreal was provided by schooners of 50 to 100 tons (*Le pilotage du Saint-Laurent de Québec à Montréal*, Ex. 1456(e)).

Governor Dorchester's ordinance was modified twice—in 1790 and 1797—but the amendments did not change its basic structure since the new regulations simply dealt with difficulties and abuses.

On April 12, 1790, 30 Geo. III c. 1 dealt with certain matters regarding the port of Quebec and the Captain of the Port and also made it mandatory for pilots, upon arrival at Quebec, to produce a certificate of behaviour while aboard, and their permissible stay at Quebec when not engaged was limited to eight days.

It was in this ordinance that the division of the St. Lawrence River at Quebec for navigation and pilotage purposes appeared for the first time, and that the terms *Port of Montreal* and *Pilots and Navigation of the St. Lawrence River below Montreal* were used.

The second amendment was effected in 1797 by 37 Geo. III c. 4, entitled "An Act for amending the Laws now in force, and for making more effectual Provision for the Pilotage of the River St. Lawrence, between the Bason of Quebec and the Island of Bic and for improving the Navigation thereof unto the City of Montreal."

There is no doubt that by that time maritime traffic had increased as the colony expanded and that some ships were proceeding past Quebec to Montreal. Larger, newer ships required greater skill and knowledge on the part of the pilots and the pilotage service was developing into an extensive organization. One result was that the channels between the Gulf of St. Lawrence and Montreal were improved and provided with additional aids to navigation.

Pilotage rates were increased and apprenticeship became more closely regulated. Indentures had to be recorded before a notary public and at least one voyage abroad in a "square rigged vessel" was required. The Superintendent was empowered to make standing orders for the conduct of pilots called "Rules and Regulations for the Conduct of Pilots" which had to be approved by the Governor. Up to that time the Governor's sanction had not been necessary. This is the origin of the by-laws that have been made by the Pilotage Authority since that time.

On July 1, 1802, according to the list given by the Superintendent of Pilots, Mr. A. J. Raby, to the Customs House, there were forty-nine licensed pilots on the list for pilotage between Bic and Quebec and twenty-three for pilotage between Quebec and Montreal (*Bulletin des recherches historiques*, 1918, Ex. 1456(g)).

### (3) PUBLIC CORPORATIONS AS PILOTAGE AUTHORITY (1805-1905)

#### PREAMBLE

As the colony developed, overseas maritime traffic increased to such an extent that it became urgent to improve navigation on the St. Lawrence and to develop the pilotage service. Since this was clearly too great a task to be undertaken by one government official, the Superintendent of Pilots, the authorities turned to England where similar problems were handled successfully by the public corporation system. Since 1515, the responsibility for controlling navigation on the River Thames had been vested in a public corporation, Trinity House, which was, in fact, a local Department of Marine outside the Government whose members were Captains in the Royal Navy and Masters in the Merchant Service appointed by the Government.

Following the English pattern the Canadian Government entrusted this task to similar public corporations from 1805 to 1905. Most of the terms of the governing legislation were of a general nature leaving to the corporations the task of providing for specific and up-to-date requirements by means of by-laws. The Government maintained only indirect and remote control over the activities of these corporations, e.g., at one period it retained the authority to appoint all the officers and members of the corporations, the right of prior approval of their by-laws and the sole power to issue, withdraw and re-establish the pilots' licences. Within the limits of their powers, however, the corporations could act or not as they saw fit and the Government's only recourse was to amend the Act governing them in order to force them to do a specific thing, e.g., in 1850, Trinity House was compelled in that fashion to place buoys to indicate the reefs in the North Channel and to facilitate the traverse from Cape Tourmente to Reaux Island (13-14 Vic. c. 99).

Such public corporations had most of the rights, powers and responsibilities that had previously belonged to both the Superintendent of Pilots and the Captain of the Port, i.e., as far as the pilots were concerned, the corporations regulated the free exercise of the pilots' profession. The powers over discipline and disputes on pilotage matters that were formally exercised by the Superintendent were now exercised by the corporations which, for this purpose, were constituted as courts of record with their own officers and procedure and with provision for an appeal to higher courts against their decisions.



The corporations were financially independent since there was legislation authorizing them to levy the funds necessary for their operations.

There were two such public corporations: (a) Trinity House of Quebec, which lasted from 1805 to 1875 when its only remaining powers, i.e., those of Pilotage Authority, were transferred to the Quebec Harbour Commissioners who had already absorbed all its other functions; (b) the Quebec Harbour Commissioners, who remained Pilotage Authority until 1905 when they were replaced in that function by the Minister of Marine and Fisheries.

The pilots also formed a corporation; in 1860, the Corporation of Pilots for and below the Harbour of Quebec was incorporated by Act of Parliament to bring the pilots into compulsory association and to manage the service. This was the first corporation of pilots in Canada and the only one to have such far-reaching legal powers.

It attained its apogee in 1875 when it inherited the trusteeship and administration of the Decayed Pilot Fund from the then defunct Trinity House of Quebec. After the Lindsay Commission, an Act of Parliament placed this corporation in 1914 under a sort of trusteeship of the Minister of Marine, and, when the 1934 Canada Shipping Act was passed, it was stripped of all its pilotage powers except administration of the Pilot Fund, which power it still exercises.

(a) *Trinity House as Pilotage Authority*

Trinity House was created in 1805 by an Act of Parliament (45 Geo. III c. 12) which repealed and replaced the previous legislation regarding navigation and pilotage. It was entitled:

"An Act for the better Regulation of Pilots and Shipping in the Port of Quebec, and in the Harbours of Quebec and Montreal, and for improving the Navigation of the River Saint Lawrence, and for establishing a Fund for decayed Pilots, their Widows and Children."

The Corporation was composed of nine Governor's appointees: the Master, the Deputy Master and seven wardens, of whom three resided in Montreal. The Captain of the Port, from then on called the Harbour Master, and the Superintendent of Pilots were *ex officio* two of the wardens. The latter was permitted to speak on pilotage matters only and both were forbidden to take part in the deliberations when the Corporation sat as a court because of their status as plaintiffs before the said court. A Harbour Master was also appointed for the harbour of Montreal but was not one of the Corporation wardens.

The word *port* as opposed to the word *harbour* meant confined waters leading to one or more harbours. Trinity House as Harbour Authority was responsible for the efficiency of the harbours situated within the port (the

port corresponded in a general way to a Marine Agent's district) and for maintaining and improving the channels and networks of buoys and other aids to navigation within the port. There was no corresponding term for what is now known as a Pilotage District; instead, the Pilotage Authority's jurisdiction was defined merely by describing the pilotage service over which its jurisdiction extended. From 1805 until 1936 when the last of these corporations on the St. Lawrence were abolished, they were on occasion Harbour Authority, Port Authority and Pilotage Authority all at the same time, but their territorial jurisdiction as Port Authority and Pilotage Authority did not completely coincide. For instance, the situation in 1839 was as follows:

- (i) *Quebec Trinity House* was the Harbour Authority for the harbours of Gaspé and Quebec. As Port Authority, its jurisdiction extended from the Gulf, including the Bay of Gaspé, up to and including Portneuf Basin above Quebec. As Pilotage Authority, its jurisdiction was limited to the pilotage service provided by the pilots for and below the harbour of Quebec, i.e., from the boarding area at the beginning of the confined waters off Bic up to the harbour of Quebec inclusive, but not in the rest of the port of Quebec as far as Portneuf.
- (ii) *Montreal Trinity House* was the Harbour Authority for the harbour of Montreal. As Port Authority, its territorial jurisdiction extended from Portneuf Basin to what was to become the boundary line between the provinces of Quebec and Ontario west of Montreal. As Pilotage Authority, it had no jurisdiction in that section of the port west of Montreal harbour, but directed all services provided by the pilots for and above the harbour of Quebec, i.e., between Quebec and Montreal, the harbour of Quebec being joint pilotage territory for that purpose.

In the 1805 Act (sec. VI), the port of Quebec and the harbours of Quebec and Montreal were defined as follows:

"... and the Port of Quebec for the purposes of this Act, shall be held and deemed to comprehend all that part of the River Saint Lawrence, between the Island of Bic, and anchorage thereof inclusive, up to the point of Saint Anne's, above the City of Montreal: and the Harbour of Quebec, shall for the like purposes, comprehend that part of the river, from Saint Patrick's Hole, to the river of Cape Rouge both inclusive; and the Harbour of Montreal, for the said purposes, shall comprehend that part of the said river from the bay below the current of Saint Mary's, inclusive, up to the said point of Saint Anne's."

The mandate of this Corporation extended further than responsibility for supervising the pilotage service. It covered the whole field of facilitating safe navigation on the River by establishing and maintaining aids to navigation such as buoys, lighthouses, beacons and landmarks; by keeping the channels

clear; and by regulating and improving the harbours both of Quebec and Montreal. In order to carry out these duties and implement the general provisions of the Act, Trinity House was given authority to make the necessary by-laws (which, however, had to be approved and confirmed by the Governor) and to impose fines, suspensions and dismissals in case of infringements.

Parliament retained control of apprenticeship, pilots' qualifications and rates. The actual licensing was made a prerogative of the Government. The terms and conditions of apprenticeship were enunciated in the Act: the apprentice continued to be indentured to a Master Pilot but no longer to a "company"; the term of apprenticeship was increased to five years and two voyages to Europe or to the West Indies were required; the number of pilots was not limited but, as a check against an unwarranted increase, the number of apprentices per Master Pilot was limited to one. The pilots for and below Quebec had to be qualified for both channels and the full length from Bic to Quebec; candidates had to pass an examination "before such Branch Pilots, as shall see fit to attend the examination, and who may propose questions" and had to obtain a certificate from Trinity House after which the Governor would appoint the pilot "by warrant, or Branch under his hand and seal at Arms" either for the Harbour of Quebec and below or for the Harbour of Quebec and above.

At that time, there were two different groups of pilots under one Pilotage Authority but the District was soon divided by the creation of the Port of Montreal and of a separate Montreal Trinity House.

The Corporation had no responsibility for establishing pilotage rates: they were prescribed in the Act. This provision accounts for many of the numerous amendments to the Act. The regular service of pilotage included "14 days for the Pilot to remain on board, after the arrival of the ship or vessel", plus any additional time required by the Master, for which a detention charge was made. In 1869, this was reduced to 48 hours and the requirement was repealed altogether in 1873.

The principle that the payment of pilotage dues was compulsory was retained but it was relaxed to the extent that only half dues were payable if a pilot was refused, even when he had offered his services. Coasting vessels and river craft which did not go beyond the Gulf of St. Lawrence or the Labrador inshore fisheries were exempt. The dues belonged to the pilot who had offered or rendered his services.

Trinity House's only concern with pilotage dues was to ensure that the pilots made their compulsory contribution to the Decayed Pilot Fund which



the Act had created. This contribution of eight pence per pound of earnings was to be paid by each pilot to the Clerk of the Corporation twice yearly.

The Decayed Pilot Fund was the first relief and pension fund ever created by legislation for the benefit of the pilots in this country. The Fund was entrusted for administration to Trinity House as follows:

“And the said Fund is hereby vested in the said Corporation for that purpose, and shall be under the management of the said Corporation, who are hereby authorized and required to grant such relief out of the same, to distressed and decayed Pilots, and the Widows and Children of Pilots as the said corporation or a majority thereof, shall see just and proper, and the monies, which, at the end of each year, shall not be distributed for the said purpose, shall be vested in securities, bearing interest, upon immoveable property, according to the best judgment of the said Corporation, or a majority thereof.”

The powers and the procedure of the Court of Trinity House were set out in the Act. Its judgments were enforceable by way of execution on the assets of the defendant and, in case of *nulla bona*, by committing him to the common gaol of the district until the judgment was satisfied, but imprisonment was not to exceed one month.

The rôle of the Superintendent as prosecutor of pilot offenders was retained. While a cursory review of the Court records may leave the impression that the sole function of the Superintendent and of Trinity House was to act as prosecutor and penal tribunal, it must be remembered that up to 1860 the exercise of the pilots' profession was based on free competition among licensed pilots and that the excessive number of pilots encouraged repeated contravention of the regulations and by-laws. Analysis of the Court records indicates that such an impression is unwarranted. It must also be remembered that an authority without power to enforce is an authority denied, as happened when the Minister became Pilotage Authority in 1905.

The pilots in their brief (Chapter one, para. 27, Ex. 671) stated:

“Trinity House did not hesitate to impose numerous penalties, ranging from expulsion to heavy fines, for the most minimal infringements the majority of which dealt neither with professional ethic nor public safety but only with minor violations of administrative regulations.”

However, the actual picture is different. Mr. Pierre-Georges Roy, Quebec Provincial Archivist, published an analysis of the 1805-1846 Trinity House records regarding the 428 pilots who were licensed during those 41 years (Ex. 1456(g)). During that period, 69 per cent of the pilots were not subject to any disciplinary action. 11 licences were withdrawn for disciplinary reasons and of these 7 were later reinstated. Of the 193 charges laid, groundings and collisions through negligence accounted for 70 per cent, and the next most frequent offence was for piloting while suspended, as shown by the following table.

*Study of Quebec Pilotage District*

ANALYSIS OF THE EXTRACT OF TRINITY HOUSE RECORDS 1805-1846  
RE DISCIPLINARY MEASURES AND DROWNINGS CONCERNING THE  
428 PILOTS APPOINTED DURING THAT PERIOD (Ex. 1456(g))

	No. of Pilots	No. of Offences
No. of pilots on whom no disciplinary measures were exercised	297	
No. of pilots involved in 1 offence.....	89	89
No. of pilots involved in 2 offences.....	31	62
No. of pilots involved in more than 2 offences.....	11	42
No. of pilots drowned.....	37	
No. of pilots reported missing.....	4	
No. of pilots who lost their licence		
for disciplinary reasons.....	11	
for unknown reasons.....	1	
No. of pilots whose licence was later reinstated....	7	
	428	193

OFFENCES	No. of Offences
Groundings, collisions through negligence.....	130
Negligence to show flag, or number of boat.....	6
Abusive language.....	2
Refusal to take charge, to pilot.....	4
For piloting when suspended.....	10
Negligence to bring compass.....	1
Negligence to report vessels piloted.....	7
For anchoring at wrong, prohibited place.....	2
For piloting schooner <i>Leonard</i> .....	1
For going further down than indicated place.....	3
Careless and negligent when piloting.....	1
For leaving boat when in charge.....	3
For handling his apprentice roughly.....	1
Negligence to train his apprentice.....	1
For not taking his apprentice aboard when piloting.....	1
Negligence to make report.....	1
For dismissing his apprentice.....	1
For threatening his apprentice.....	1
For not reporting to Superintendent of Pilots.....	1
Infraction of the Rules.....	7
Misconduct when piloting.....	1
For leaving boat prior to the prescribed 48 hours.....	1
Suspensions—unknown reason.....	4
Fines—unknown reason.....	3
	193

The fines imposed on the pilots and their apprentices were credited to the Pilot Fund while those levied against other parties belonged to the Receiver-General. There was a right of appeal to the Court of King's Bench, whose decision was final except in cases where the interest in litigation exceeded five hundred pounds, in which case an appeal was provided to the Provincial Court of Appeals and to the Privy Council.

Trinity House soon experienced difficulty making the pilots pay their contribution to the Pilot Fund and the Act was amended in 1807 by 47 Geo. III to provide for a system of deduction at source by having the contributions collected from the Masters of vessels by the Naval Officer<sup>2</sup> at the same time he collected the port charges.

By 1811, there were many more ships requiring pilots and the apprenticeship system, limited as it had been in 1805, could not meet the demand. The situation was so serious that both immediate and long-range solutions had to be found. By an amendment to the Trinity House Act (51 Geo. III c. 12) the remedies were as follows:

- (i) The Governor was authorized during the term of five years as an immediate and temporary measure to appoint up to fifteen persons with the necessary qualifications to pilot vessels.
- (ii) The permissible number of apprentices per Master Pilot was raised from one to two.
- (iii) In certain cases, the apprenticeship period was reduced to four years.

As explained in the preamble to an 1812 amendment (52 Geo. III c. 12), contention soon arose between the two groups of pilots over the administration of the common Pilot Fund. Although the Fund consisted largely of the contributions of the Lower St. Lawrence Pilots, it was practically exhausted by the heavy and disproportionate demands of the other group. It was, therefore, felt advisable to create a separate fund for the pilots of Quebec and above. Thus one further step was taken in the division of the Quebec Pilotage District.

The 1822 amendment (2 Geo. IV c. 7) acknowledged the advent of steam by making steamboats subject to the payment of pilotage dues.

From 1829 to 1831 inclusive, four amendments were made to the Trinity House Act but they did not concern pilotage directly. Their purpose was to appropriate to Trinity House monies out of public funds toward the erection of lighthouses at Anticosti and Pointe des Monts, and also for stationing a floating lighthouse at the St. Roch Traverse (9 Geo. IV c. 24), 10-11 Geo. IV c. 13, 10-11 Geo. IV c. 34, 1 Will. IV c. 12).

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<sup>2</sup> This was an officer appointed by the Government who was not a member or officer of Trinity House.



By 1831, the situation was the reverse of 1812: there was a surplus of pilots, possibly due to the combined factors of the emergency measures taken in 1812 and the change in the traffic pattern that followed the advent of steam vessels, i.e., fewer but larger and faster vessels. The competition among pilots became more acute and gave rise to many abuses. The situation was not new, however, because it was inherent in the free enterprise system. As early as 1808, when there was a scarcity of pilots and, therefore, no reason for such abuses, it was reported that the pilots were constantly contravening the by-laws by going far down the St. Lawrence at night to meet vessels. On July 23, 1808, a Captain Lambly sent a report to the Governor's Secretary recommending that he be allowed to cruise 10 or 20 leagues below Father Point and remove for punishment any pilots he might find already aboard vessels (Secretary of State's papers 1808, S74 Public Archives).

In 1831, the pilots sent the Government a petition containing their complaints against Trinity House. The petition was referred to the standing committee but was not recommended by them and, therefore, no further action was taken (Journal of the House of Assembly of Lower Canada Vol. 41, 15 November 1831 to 25 February 1832, 2 Will. IV). This is a pertinent extract from their recommendations:

"...praying that no Pilot should have the liberty of piloting any Vessel for a smaller sum than that which is fixed by Law; that, for the next fifteen years, no Pilots should be allowed to take as an Apprentice any other than the son of a Pilot; that all Pilots who have piloted a vessel from below to Quebec, in an able manner, should have the preference of piloting her from Quebec down the stream;"

Then followed complaints against the way the Decayed Pilot Fund was being handled by Trinity House:

"...that all Pilots Widows having very young children, should have a larger Pension than that which is allotted by Law from the Pilots Fund; all Pilots in case of sickness should receive a proportionate allowance from the same Fund, without being obliged to reimburse the same on the recovery of their health; and that in case of a Pilot losing his Branch, (a thing which by accident may happen to all Pilots, even the most experienced,) his wife and children should be allowed a Pension proportionate to his length of time and services."

In 1834, an amendment (4 Will. IV c. 25) introduced quarantine dues for pilots detained aboard vessels at the Grosse Ile quarantine station.

By 1832, shipborne traffic between Quebec and Montreal had become so important that it was felt desirable to divide the territory and responsibilities of Trinity House. By 2 Will. IV c.24 the Port of Quebec was reduced so as to terminate at Pointe du Lac, county of St. Maurice (in 1839 it was further reduced to the western limit of Portneuf Basin (Notre Dame de Portneuf) (2 Vic. c. 19) and the portion of the River upstream from that line became the Port of Montreal. The Montreal section of Trinity House became an independent corporation whose duties included trusteeship and administration of the Decayed Pilot Fund for the pilots for and above the harbour of Quebec.

Until the Trinity House Act was consolidated in 1849, only three of its amendments dealt directly with pilotage. In 1841 (4-5 Vic. c. 15), the excessive number of pilots was restricted but their acquired rights were preserved; the period of apprenticeship was extended to seven years; the number of overseas voyages required of an apprentice was increased to a minimum of three; the number of apprentices per pilot was reduced to one with the proviso that Trinity House must approve each pilot's right to take an apprentice. The amendments in 1846 (9 Vic. c. 4) and 1847 (10-11 Vic. c. 27) preserved the acquired rights of apprentices by recognizing their right to be governed by the by-law requirements that existed at the time of their indenture, notwithstanding the further requirements that were added through later by-law amendments.

Over the years, the large number of amendments, many dealing with the same subject, made the Act difficult to interpret and some of its provisions became obsolete.

In 1849, a new Act (12 Vic. c. 114, Ex. 703) was passed which, in addition to providing unity and clarity, contained basic, far-reaching changes and abrogated the 1805 Act, together with all its amendments, wherever it referred to Quebec Trinity House.

The 1849 Act was a substantial document containing one hundred and twenty sections. It dealt at length with the corporate structure of Trinity House and its various duties and responsibilities. Numerous sections dealt with the Corporation's powers to own property, to borrow money, to enter into contracts, and to expropriate land required for the erection of aids to navigation. In addition, there were provisions for the management and control of the harbour of Quebec and for the judicial powers of the Corporation.

This Act contained the most complete pilotage legislation to that date. The major change was the institution of compulsory pilotage including provision for the following: (i) vessels leaving the Port of Quebec without a pilot were liable to a fine equivalent to the dues they would otherwise have paid (sec. 53); (ii) when vessels on inward voyages entered the port limits the Union Jack had to be hoisted at the foremast until a licensed pilot had embarked, and non-compliance carried a penalty of ten pounds (sec. 54); (iii) when a boat flying a pilot flag was sighted, the Master was required to assist the pilot to embark and, if he failed to do so, he was liable to a fine not exceeding ten pounds in addition to the payment of the pilotage dues to the pilot concerned (sec. 55); (iv) a Master who had engaged a pilot or had promised to employ one but later refused was liable to the pilot for the amount of the dues (sec. 30).

It is of interest to note that in 1864 (27-28 Vic. c. 57) compulsory pilotage was extended to movages in the harbour of Quebec, excluding vessels proceeding to Montreal, under penalty of a fine not exceeding ten

pounds for failure to take a pilot, and that compulsory pilotage was abolished when the first Pilotage Act was passed in 1873.

In the 1849 Act the Government retained the right to appoint all officers and members of Trinity House. Appointments, including those of two Superintendents of Pilots instead of one as before, were during pleasure. The remuneration of the two Superintendents and of the Corporation officers was fixed by the Act and Trinity House was made liable for paying them out of its own revenues.

Ever since Governor Murray appointed a Branch Pilot to supervise the service it had been taken for granted that the Superintendents of Pilots would be pilots, but this was not clearly stated in the law. The 1849 Act dispelled any doubt: subsec. 2(6) prescribed that the Superintendents "shall be Branch Pilots" and would continue to benefit from the Decayed Pilot Fund to which they must contribute. If they ceased to be Superintendents, they automatically reverted to licensed pilots (sec. 60).

Parliament transferred the power to license pilots from the Government to Trinity House but the main requirements for apprenticeship continued to be laid down in the Act and Trinity House's power to suspend and withdraw licences was limited. The apprenticeship requirements remained as they were before except that four voyages to Europe were required, a copy of the notarial deed recording the indenture had to be filed with Trinity House and only those pilots who had proved to Trinity House their aptitude to teach were given a licence to take an apprentice, and then only one. It was also laid down that, in order to assist all the apprentices, Trinity House must organize two annual training cruises in the North Channel of the St. Lawrence "to explore the same" using its pilot boat with one of the Superintendents in charge.

Trinity House's authority to withdraw licences was limited to cases of non-usage and gross misconduct. Non-usage for two years without valid reason rendered the pilot liable to a fine of fifty pounds and a recurrence resulted in the withdrawal of his licence. For misconduct which caused the loss of, or damage to, a vessel or a serious delay, a licence could be withdrawn only if the pilot was guilty of gross negligence or drunkenness. If convicted of gross negligence, the pilot could be reinstated provided he passed the regular pilot's examination again, and, if convicted of drunkenness, his licence could be returned provided he gave satisfactory proof of two years' sobriety.

The limits of the "Port of Quebec" were changed and a new term, the "river", was added. The "Port of Quebec" comprised the area from the western limit of Portneuf Basin and included that part of the Gulf that fell within the limits of the Province of Canada. The "river" was that part of the



port that ended in the Gulf at an imaginary line drawn from east of the anchorage of Barnaby Island (near Father Point) and east of the anchorage of Cape Columbia (Cap Colombier) on the north shore. The "river" thus defined became in the Pilotage Act of 1873 (sec. 5) the Pilotage District of Quebec.

Licensed pilots were exempted from militia, jury and constabulary duties.

This new Act was amended many times because Parliament wanted to keep control over matters which were liable to fluctuate such as tariff, salaries of officers and exemptions (1850, 13-14 Vic. c. 96; 1855, 18 Vic. c. 161; 1869, 32-33 Vic. c. 41; etc.).

In 1850, legislation was passed (13-14 Vic. c. 99) to oblige Trinity House of Quebec to provide a channel to cross from the South Channel to the North Channel, which is now known as the North Traverse. The title of the Act stated that it was "to oblige Trinity House of Quebec to lay down Buoys to mark the Shoals in the North Channel of the River St. Lawrence and to facilitate the Traverse from Cape Tourmente to Isle-aux-Reaux." The Act added that it was "in consideration of the rapid settlement and increasing population of the Territory lying upon the banks of the Saguenay and upon the North shore of the River St. Lawrence, from the Black River downwards as far as Pointe-des-Monts".

#### (b) *Creation of the Quebec Pilots' Corporation*

The year 1860 marked a drastic change in the basic organization of the pilotage service, namely, the abolition, at the pilots' own request, of free enterprise competition among members of the profession and, in its stead, the assignment of pilots by roster, combined with the pooling of pilotage revenues.

The pilots took this major step to improve both their own position and the quality of the service, and thereby established a precedent which, despite bitter opposition from many quarters (particularly the shipowners), was subsequently recognized as one of the most efficient ways to organize pilotage. The pooling system they created has since been applied in most Pilotage Districts in Canada with the notable exception of their own District of Quebec where a later Act of Parliament (1914, Geo. V c. 48) compelled them to adopt another system.

In 1860, the number of pilots, which had been excessive for some years, reached 280 and the pilots suffered the bitter consequences of free competition in a profession where the number of members was not effectively controlled. Their lives were endangered and their earnings were threatened.

In his minority report Captain Adjutor Lachance, the pilot member of the Lindsay Commission of 1913, summed up the reasons for the formation of the 1860 Pilots' Corporation:

"In 1860, after the loss by drowning of 58 of their confreres<sup>3</sup> in the short space of two years, the 280 branched pilots united and unanimously asked the government to allow them to form in a corporation.

The principal reasons they gave to have an Act of Incorporation were:—

1st. To be able to acquire large schooners to keep the stations in a better manner and be always ready, in all sorts of weather, to render assistance to navigation.

2nd. To do away with that opposition of one against the other, who, sometimes in order to be first to meet vessels obliged them to go down as far as the entrance of the Gulf risking their lives in very small open boats.

3rd. To be in a position to collect the amount of their pilotage dues without being obliged to leave \$25 or \$30 off, in order to have the vessel down". (Lindsay Report, p. 23, Ex. 1325).

The 1860 Bill, known as the Taché Bill, was not passed without much debate and opposition. It was first proposed in 1854 at the request of two hundred of the pilots with thirty-seven dissenting. Opposition also came from several large commercial houses on the grounds "that it did away with competition, and that the proposal to pool all the pilots' earnings was a pernicious one, and would not develop genius but generate laziness" (Lindsay Report, p. 7, Ex. 1325). However, there was dissatisfaction even among shipowners on account of the long delays experienced at the Bic station by upbound vessels because the pilots were scattered in the Gulf, and by downbound vessels because pilot boats were lacking to disembark the pilots.

In 1860, by 23 Vic. c. 123 the pilots' request was granted and they were incorporated under the name of "Corporation of Pilots for and below the Harbour of Quebec". It was a professional closed corporation to which all the licensed pilots of the District automatically belonged. As stated in the Act, the pilots became responsible through their Board of six Directors for providing seaworthy schooners to cruise in the boarding area to permit the pilots to embark and disembark. They were also responsible for despatching. The pilotage dues were considered Corporation earnings which, after expenses had been deducted, were shared equally by the serving pilots on the basis of availability. This arrangement resulted in a compulsory partnership for the purpose of sharing equitably workload, expenses and income.

The pilotage dues of outbound vessels were paid to the Corporation in advance and the Customs Officer could not give clearance until he was satisfied payment had been made.

The right of the shipowner to choose his pilot was recognized. The Act granted to the Montreal Oceanic Steamship Company the right to choose four

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<sup>3</sup> This figure is accepted because it is taken from the Lindsay Report (Ex. 1325). There was a similar situation during the period 1805 to 1846 when 37 of the 428 pilots who were appointed by Trinity House were drowned and 4 reported missing (Ex.1456 (g)).



pilots who, when accepted, were excused from other pilotage duties. Masters, when downbound, were allowed to choose anyone whose name appeared on the tour de rôle list at Quebec. The pilot was obliged to report 48 hours after each trip at which time his name was placed at the bottom of the list to indicate his turn.

As might be expected, these privileges became a bone of contention and remained so until the "special pilot" system was abolished in 1960. The "special pilot" system made it difficult, if, not impossible, to share workload and remuneration equitably. It must have been a concession that the pilots were forced to make in order to appease the opposition and to obtain their incorporation. Trouble developed immediately, but by an amendment to the Act (32-33 Vic. c. 43, secs. 2 and 3, assented to June 22, 1869) the privilege of the Master to choose a pilot was reaffirmed in no uncertain terms and increased by extending it to the inward voyage as well, the Master being given the right to choose any pilot on board the schooner that hailed him. Sec. 3 stated that once "on the roster or rôle" the pilot was "liable to be so chosen and to serve whatever may have been the number of times he shall have previously served."

On December 11, 1869, application was made to the Government for the revocation of the 1860 Act and the abolition of the Corporation so that the pilots who were compelled to do more than their share could retain the dues they earned by this extra work. The Government did not grant the request and these provisions, which were never amended or repealed, would therefore appear to be still in force (vide Comments, Part I, p. 18).

Reverting to the 1860 Act, it provided that, subject to the approval of Trinity House and to publication in the press, the Corporation had the right to enact by-laws which dealt with internal administration, discipline of pilots, despatching, sharing and distribution of earnings, payment of expenses, etc. It had to make an annual financial report to Trinity House which also continued to exercise control as Pilotage Authority through its By-laws, the supervision of the two Superintendents and its powers to settle pilotage disputes and to take disciplinary measures.

There were very few amendments to the Pilots' Corporation Act. Sec. 21, which defined which earnings belonged to the Corporation, was clarified in 1862 (25 Vic. c. 70) to mean all the pilots' earnings including half of any fine to which they might be entitled as plaintiffs. A sanction was provided to ensure the observance of the By-laws of the Pilots' Corporation and there was also provision for the punishment by fine, suspension or withdrawal of licence of pilots who, through misconduct, negligence or drunkenness, delayed the departure of the vessels to which they were assigned. In 1869 (32-33 Vic. c. 43), the non-responsibility in torts of the Corporation for the

act, fault or negligence of a pilot was stated in the Act<sup>4</sup>. Finally, in 1875 (38 Vic. c. 55), the Corporation inherited the administration of the Decayed Pilot Fund from Trinity House and was required to render annual accounts to the Minister of Marine and Fisheries. In 1899, the schedule to the Quebec Harbour Commissioners Act (62-63 Vic. c. 34) carried an amendment to the Pilots' Corporation Act for the purpose of correlation only, the name of Trinity House being replaced by the name of the Quebec Harbour Commissioners. The next Act of Parliament that affected the Pilots' Corporation Act was the 1914 Act which, without amending or abrogating the 1860 Act, to all intents and purposes abolished the Corporation by depriving it of all its powers except those concerning the administration of the Decayed Pilot Fund.

These various changes in the status of the pilots made it impossible to continue the former apprenticeship system, particularly in view of the fact that the individual pilots no longer owned their own pilot vessels. This situation was corrected to some extent by an amendment to the Trinity House Act in 1864 (27-28 Vic. c. 57). The number of apprentices was not to be below a minimum of 36 and they were thereafter to be indentured to the Corporation of Pilots which was required to make them serve in turn on board vessels being piloted or on board the pilot schooners.

(c) *The Pilotage Act, 1873*

Until Confederation, the Province of Canada had been concerned with pilotage on the St. Lawrence only, but the new Dominion of Canada became involved in the pilotage problems of the Maritime Provinces, whose pilotage legislation, organization and practice were basically different.

The Pilotage Act of 1873 (36 Vic. c. 54) was the first attempt to establish uniform provisions for all Pilotage Districts. It laid down a basic organization but contained special provisions which recognized the existing systems in Halifax, Saint John, N.B., Quebec and Montreal. It incorporated rules that were, or could be, common to all and provided flexibility by giving the Pilotage Authority additional powers to make regulations covering local situations.

The basic organization provided by the Pilotage Act was a financially self-supporting District with self-employed pilots, either working as free entrepreneurs or in small partnerships (companies) under the supervision of a local board appointed by the Government as Pilotage Authority. Masters could not be compelled to employ a pilot but the payment of pilotage dues

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<sup>4</sup> The 1869 amendment was no doubt rendered necessary on account of the courts' decisions holding the Pilots' Corporation civilly responsible for damages caused by its pilots. One such case is reported: *Lotus* 1861, 11 L. C. R. 342 (vide Part I, p. 823). The suit for damages taken by the ship *Washington* against the vessel *Lotus* was dismissed. The court decided that it was sufficiently shown that the collision was occasioned by the sole fault of the pilot of *Lotus* and discharged the owners of *Lotus* of all responsibility, pointing out that they might have recourse against the pilot or against the Corporation of Pilots to which the pilotage dues belonged.

could be made compulsory. The term "Pilotage District" appeared for the first time; it meant the territory over which the Pilotage Authority had jurisdiction. Parliament delegated to the Governor in Council power to create and abrogate Districts, to fix and amend their limits, to appoint their Pilotage Authority and to determine whether the payment of the dues would be compulsory. Halifax, Saint John, N.B., Montreal and Quebec were exceptions to these rules in varying degrees.

Most of the special provisions in the Act concerned the Quebec District because its pilotage organization was unique. The existing reduced and limited powers of Trinity House were continued and the rôle of the Pilots' Corporation in the control and management of the service was reaffirmed. The pertinent sections of the Trinity House Act were not abrogated nor were they enlarged. This was specifically indicated by sec. 91:

"Nothing in this Act shall be construed to give power to Trinity House of Quebec to make regulations respecting the management or maintenance of pilot boats, or respecting the administration or distribution of the earnings of pilots and pilot boats, save and except in so far as relates to the administration of the pilot fund."

A special chapter in the Act (secs. 85 to 88 incl.) gave additional recognition to the part played by the Pilots' Corporation in the management of the service. In fact, this chapter amended the Quebec Pilots' Corporation Act by prescribing that certain pilots who carried out no pilotage assignments would continue to share in the pool and might even be eligible for a bonus because their contribution was to the common benefit of the pilots and the service, i.e., the pilots who were employed as Masters of the pilot schooners and the Directors of the Corporation. One of the Directors was required to be on duty and to be present in person at one of the pilot stations throughout the navigation season in order to supervise despatching. He was also required to keep a journal of events, a copy of which was to be forwarded monthly to Trinity House in lieu of a report.

The Act recognized the special status of the Quebec Decayed Pilot Fund by making the sections which dealt with pilot funds inapplicable to the Quebec District and thus avoided conflict with the pertinent provisions of the Trinity House Act. The compulsory contribution was fixed by the Act at 7 per cent of the pilots' earnings (sec. 81).

Compulsory pilotage was abolished by repealing the pertinent sections of the Trinity House Act and replaced by the compulsory payment of dues (secs. 49 and 57).

The Pilotage District of Quebec comprised what was referred to in the 1849 Trinity House Act as that part of the Port of Quebec known as "the river", i.e., from the basin of Portneuf inclusive to an imaginary line drawn from the eastern anchorage ground of Barnaby Island to the eastern anchorage ground of Cape Columbia (Cap Colombier) on the north shore (sec. 5).



These limits were fixed by the Act and, since the Act did not contain a provision similar to the one now embodied in the final lines of sec. 324 C.S.A., the Governor in Council had no authority to alter them.

The provisions regarding apprenticeship were deleted from the Trinity House Act and incorporated in special sections of the Act dealing with apprenticeship in the Quebec District (secs. 25 to 28 incl.). No changes were made except in the number of apprentices which could never be less than 36 nor more than 60.

Subsec. 18(5) was a new feature in that it limited the number of pilots on strength at Quebec to a minimum of 150 and a maximum of 200, but sec. 62 of the Trinity House Act, which gave a pilot the right to retire voluntarily at 60 and to receive a pension from the Decayed Pilot Fund, was abrogated. The licence automatically lapsed when the pilot reached the age of 65 but the Authority was allowed to issue new annual licences from year to year with no limitation as to age (sec. 36). The licensing of Masters and mates to pilot their own ships was not authorized for the Districts of Quebec, Montreal, Halifax or Saint John, N.B. (sec. 65).

Another new feature gave Trinity House, like the other Pilotage Authorities, power to fix the tariff but the Act specified that it was to be calculated to provide for a \$600 minimum net annual income per pilot on a three-year average. Otherwise, the tariff was not to be amended (sec. 18).

In the Trinity House Act most of the sections dealing with pilotage were deleted and the few that were retained dealt only with the special organization of the Quebec District, such as Trinity House's obligation to organize training cruises for the apprentices in the North Channel; the pilots' obligation to abide by the orders of the Harbour Master; the existence of the Decayed Pilot Fund and how its benefits were to be determined. All the provisions authorizing Trinity House to act as a Court of Justice with reference to pilotage disputes and the discipline of pilots also remained.

(d) *Quebec Harbour Commissioners Pilotage Authority as Successors to Trinity House*

The various Acts passed between 1858 and 1875 indicate that during that period the structure of the organization for the administration of navigation on the St. Lawrence River was the object of much controversy. In 1858, Trinity House was relieved of its function of administering the harbour of Quebec and this task was entrusted to another public corporation, the Quebec Harbour Commissioners, especially created for the purpose and composed mostly of non-Government appointees who represented the various parties interested in the harbour (22 Vic. cc.31 and 32). This marked the beginning of the decline of Trinity House.

In 1871, it was enacted (34 Vic. c. 31) that the Wardens of Trinity House, with the exception of the Harbour Master and one of the two

Superintendents of Pilots, should serve without pay. In 1872, an attempt was made to alter the Government-appointed character of Trinity House by increasing the number of members to include four elected by the Council of the Quebec Board of Trade and by making the President of the Pilots' Corporation a Warden *ex officio*.

Whether it became apparent that there was a duplication of organizations dealing with the same problems of navigation on the St. Lawrence or whether there were other reasons, it is a fact that Trinity House was abolished in 1875 (38 Vic. c. 55) and was superseded in all its functions, responsibilities, rights and assets, as well as liabilities, by its young rival, the Quebec Harbour Commissioners Corporation (except for the administration and trusteeship of the Decayed Pilot Fund which duties were then entrusted to the Pilots' Corporation). It was a return to the original situation that prevailed between 1805 and 1858 except that the name of the Corporation was changed and half its members were no longer Government appointees.

At the same time, the membership of the Harbour Commissioners Corporation was modified so that five of its nine members were appointed by the Governor and the remaining four were elected, one by the Board of Trade of Quebec, one by the Board of Trade of Lévis and two by the shipping interests. In addition, the Chairman of the Corporation of Pilots was a member *ex officio* but with respect to pilotage matters only.

The Harbour Master and the Superintendent of Pilots were no longer members of the Corporation and it was left to the Corporation's discretion to decide whether their services should be retained or dispensed with, but, if retained, it was specified their salaries would have to be paid out of Corporation revenues and not by the Government. In fact, the office of Superintendent of Pilots was abolished and was not reinstated until the Minister became the Pilotage Authority in 1905 (Ex. 1456(k)). As a corollary, in 1875, the Pilotage Act was also amended (38 Vic. c. 28) to reflect the change in the Pilotage Authority. At the same time, the right of the Quebec pilots to appeal against any judgment rendered by the Pilotage Authority was reiterated; such appeals were to be made in the Superior Court and the relevant sections of the Trinity House Act were to apply. As far as pilotage and the pilots were concerned, nothing really changed and exactly the same laws and by-laws continued to apply. It was the same organization but with different people as the Authority. The Harbour Commissioners remained the Pilotage Authority until replaced by the Minister of Marine and Fisheries in 1905, but they do not appear to have been very active in the field of pilotage.

By that time (1905), statutory legislation on pilotage was located in four different sets of statutes: the Trinity House Act of 1849, the Quebec Pilots Corporation Act of 1860, the Quebec Harbour Commissioners Act of 1858 and the Pilotage Act of 1873. To a certain extent, this is still true today.



#### (4) PILOTAGE LEGISLATION (1877-1903)

Any uncertainty that might have existed as to the judicial functions of the Quebec Harbour Commissioners was dispelled in 1877 by an amendment to the Pilotage Act (40 Vic. c. 51 s. 6).

An 1882 amendment to both the Pilotage Act and the Trinity House Act (45 Vic. c. 32) dealt with the limit of time for initiating investigation into a complaint against a pilot's conduct. Undoubtedly there were still too many pilots since the Pilotage Authority was prohibited from granting any licence until their number was reduced below 125, subject, however, to the acquired right of the previously indentured apprentices to be granted a licence when qualified. The Authority was also given power to fix the number of apprentices having regard to the requirements of the service. Obviously, the Pilots' Corporation and the pilots whose licences were withdrawn had different opinions about the amount and the nature of their share in the Corporation's assets and, hence, sec. 9 of the amendment gave the Board of Directors of the Pilots' Corporation authority to make agreements and reach compromises.

In 1886, the Pilotage Act was consolidated (49 Vic. c. 80). No change was made in the organization of the District of Quebec, but the various amendments to the 1873 Act were incorporated, e.g., substituting the name of the Harbour Commissioners for Trinity House as Pilotage Authority, and naming the President of the Pilots' Corporation as a member of the Pilotage Authority.

The amendment passed in 1875 was also incorporated (38 Vic. c. 28 s. 3), the origin of the present sec. 328 C.S.A., which indirectly prescribed that the Pilotage Authority of Quebec is the only Pilotage Authority in Canada that does not have the right to pay its necessary expenses out of pilotage monies. This was in conformity with the special organization of Quebec whereby all such expenses were met by the pilots themselves through their Corporation, and Trinity House had its separate sources of revenue to cover its own administrative expenses. In addition, sec. 19 provided that any proposed by-laws of the Quebec Pilotage Authority had to be furnished to the Pilots' Corporation twenty days before their submission to the Governor in Council for approval.

In a volume published in 1888 containing the by-laws of the City of Quebec there is an appendix entitled "By-laws, Orders, Rules and Regulations of the Pilotage Authority of the District of Quebec" (Ex. 1456(f)). It is apparent that up to 1888 the Harbour Commissioners had not seen fit to replace the by-laws promulgated by Trinity House. It is interesting to note that they are composite by-laws which did not deal merely with pilots and pilotage but with all the other subjects that were within the competence of Trinity House or the Quebec Harbour Commissioners.

Among the offences listed in the sections dealing with pilotage and pilots were: to stop or anchor alongside the moorings of Her Majesty's Ships; to take charge of a vessel other than their branches permitted; to fail to report any alterations in sand banks or channels, buoys or beacons that were out of place; to fail to appear before the Corporation when ordered to do so; to fail to warn a ship approaching shoals or other cause of danger; to abandon a vessel in the harbour of Quebec against the wish of the Master within 48 hours after arrival; to anchor a vessel within two cables of any wharf in the harbour and at other specified places.

The By-laws also dealt with the voyages that the apprentices had to make overseas and the "exploration trips" they had to make to the North Channel of the River St. Lawrence.

It was made an offence for the Master not to provide the requisite assistance to the pilot for "heaving the lead" and it was prohibited to engage pilots for a shorter distance than to Bic or to discharge the pilot before arriving off the anchorage at Bic.

In addition, the By-laws dealt with harbour regulations, such as on arriving in the harbour from sea the Master had to hoist the Union Jack at the peak until the vessel had been cleared; if immigrants were aboard, a special signal had to be flown; ballast could not be discharged except within certain designated limits; vessels could not be made fast to the shore except for the purpose of hauling ship to avoid delay; how vessels had to lie at certain wharves and how they were to be trimmed and rigged was defined; heating or boiling tar, pitch, was prohibited; lost anchors were to be reported; dirt, silt, or rubbish were not to be left on docks or landing places; lights were to be shown in various circumstances; there were special regulations for steamboats carrying passengers; gangways were to be made fast; certain wharves were designated for various categories of ships.

Many sections dealt with the same topics (except pilotage) regarding that part of the Port of Quebec known as the harbour of Gaspé (which the By-laws did not define).

The duties of the Harbour Masters were defined and the Bailiff, when not employed in his capacity as an Officer of the Corporation Court, had to observe steamboats and report to the Harbour Master any contravention of the By-laws. The By-laws also contained a tariff of fees for Advocates, the Clerk of the Court and the Bailiff.

On June 11, 1891 (Canada Gazette 1891-1892 Part I, p. 6), the Governor-General was requested to approve increases in tariff in order to bring each pilot's income up to \$600 per year guaranteed minimum.

In 1899, the new Quebec Harbour Commissioners Act (62-63 Vic. c. 34) effected a long overdue consolidation and revision of the many Acts and amendments dealing with pilotage and with the other powers of the Quebec Harbour Commissioners.

In sharp contrast with previous legislation in this field, very little was said about pilotage although it dealt at length with the organization of the Corporation. The situation had changed from the time when there was no separate pilotage legislation because the Trinity House Act, among other things, constituted a pilotage code; since 1873 there had been a Pilotage Act embodying all general pilotage provisions as well as some specific provisions, e.g., those applying to the District of Quebec only. The new Quebec Harbour Commissioners Act contained only a brief allusion to the Corporation's function as Pilotage Authority and reference was made to the Pilotage Act for a definition of its powers and duties in that field.

The territory of the Port of Quebec was reduced in the east to what was previously the eastern limit of the "river". In the west it was extended to Deschambault and Richelieu Island so that the port no longer coincided with the Pilotage District. The limits of the harbour of Quebec were defined in sec. 6 of the Act and have not been modified since.

The shape of things to come was shown by the pilotage by-laws passed by the Quebec Harbour Commissioners November 21, 1901, and approved by the Governor in Council June 23, 1903, which represented a complete and a total delegation of power by the Pilotage Authority to the Minister of Marine and Fisheries and his Department (Ex. 1456(h)). It was apparent that, since 1901 at least, the Quebec Harbour Commissioners had ceased to perform their responsibilities as Pilotage Authority effectively and, therefore, obviously the next step was for the Minister to become Pilotage Authority in his own right. This, in fact, soon occurred. This delegation of powers appeared to identify both the Minister and his Department with the Pilotage Authority and resulted in a misapprehension which still exists.

In 1903, an Act of Parliament (3 Ed. VII c. 190, Ex. 903) incorporated an association of shipowners, shipping agents and other people interested in shipping under the name "The Shipping Federation of Canada Inc." with its main office in Montreal. The purpose of the organization was to deal with the questions and problems of common interest to the group and to serve as their official representative. The members represented mainly ocean-going vessels of foreign flags. The Shipping Federation was to be intimately involved in pilotage and the organization of the service.

#### (5) SAGUENAY PILOTAGE DISTRICT (1903-1905)

For a very short while, the Saguenay River became a separate Pilotage District. In 1903, by Ed. VII c. 48 s. 2 the Saguenay River was taken out of the limits of both the Port of Quebec and the Pilotage District of Quebec. On January 19, 1904, by an Order of the Governor in Council (Ex. 1456(l)),



the Saguenay River was made a separate Pilotage District under the name of "the Pilotage District for the River Saguenay", the limits of which were as follows:

"To embrace all the tidal waters of the River Saguenay and its tributaries and the waters of the River St. Lawrence at its mouth within a radius of seven miles from the front range light house at Pointe Noire, on the western side of the mouth of the river."

The Order in Council further provided for a Pilotage Authority composed of local appointees. Pilotage was made compulsory. This was illegal being contrary to sec. 13 of the 1886 Pilotage Act which limited the Governor in Council's power to making the payment of dues compulsory.

The Saguenay Pilotage District was short-lived and was discontinued some fifteen months later when its territory was reincorporated into the Port and Pilotage District of Quebec, i.e., reverting to the situation prior to 1903 (1905, 4-5 Ed. VII c. 34 s. 1).

The reasons for this sudden change of policy are not known and for our purposes need not be investigated further. What the pilots recall of the matter was that "the pilotage was in the hands of one firm, two men were engaged at two or three hundred dollars a year to make the pilotage in that river, the ships were charged full tariff, and the difference went in the profit and loss account of the said firm" (Pilots' answer to the Lindsay Report, Ex. 1456(k)).

#### (6) TRANSITION PERIOD (1905-1934) THE MINISTER PILOTAGE AUTHORITY AS SUCCESSOR TO TRINITY HOUSE

##### (a) 1905 Act

When "An Act respecting the Port and Pilotage District of Quebec" (4-5 Ed. VII c. 34) received assent July 20, 1905, the Minister of Marine and Fisheries became officially the Pilotage Authority for the Pilotage District of Quebec—an office which he had actually held unofficially for a number of years. The Quebec Harbour Commissioners were superseded by the Minister as Pilotage Authority with the proviso that the Minister was not to have judicial powers. These were to be exercised under the Shipping Casualty Act 1901 or, in cases not covered by the Act, by a tribunal or by an officer designated by the Minister.

It is possible that the change was prompted by local representations and by the desire to improve both the service and the lot of the pilots, but the legislation of the time indicates that it resulted from a concerted policy of centralization and that the endless local disputes and complaints were used to justify this policy. The appointment of the Minister as Pilotage Authority appears to have been simply one phase of the overall plan.



It is worth noting that a precedent had been established a few months earlier in the District of Montreal where, on October 24, 1903, the Minister was made the Pilotage Authority replacing the Montreal Harbour Commissioners (3 Ed. VII c.48), and that, in 1904, the Pilotage Act had been amended to incorporate this new feature in the general provisions of the Act applicable to all Districts. This was the origin of the present sec. 327 of the Canada Shipping Act. At that time, two conditions had to be fulfilled before the Minister was appointed Pilotage Authority: there had to be a recommendation by the shipping interests of the port concerned or by the Council of the Board of Trade; the Governor in Council had to be satisfied that the appointment was "in the interest of navigation". The first condition was deleted in 1919 by 9-10 Geo. V c. 41.

Whether or not it was a result of a similar policy of centralization, it is worth noting that in 1912 the Quebec Harbour Commissioners Corporation lost its representatives from local interests when 2 Geo. V c. 44, provided that "the corporation shall consist of three commissioners appointed by the Governor in Council upon the recommendation of the Minister of Marine and Fisheries, and they shall hold office during pleasure". Thus, the Corporation became strictly a Government agency, although autonomous, just as Trinity House had been up to 1872. The change in the Pilotage Authority in Quebec must have caused little excitement because it simply legalized the *de facto* situation.

(b) *1906 Canada Shipping Act*

In 1906, all these laws related to navigation were incorporated in one single Act, the first Canada Shipping Act. As far as pilotage was concerned, this Act was merely a consolidation and there were no changes in pilotage legislation or in the organization of the Quebec Pilotage District. The various sections were simply brought up to date, e.g., the Pilotage Authority for the District of Quebec continued to have only a regulatory role, despite the fact that the Authority was the Minister (subsec. 434(2)).

However, the 1905 statutory appointment of the Minister as Pilotage Authority had caused many fundamental changes in the organization and administration of the service:

- (i) The pilot station was moved eighteen miles further downriver, i.e., from Bic to Father Point, outside the District limits as then defined by sec. 4 of the 1886 Pilotage Act. Nevertheless, the description of the District remained unaltered until this irregularity was corrected by sec. 312 of the 1934 C.S.A.
- (ii) The Department of Marine and Fisheries took over, at public cost, the pilot vessel service at the new location. Hence, the Corporation had to sell its three schooners. Because they had been built espe-

cially for pilotage service, they had very little commercial value and their sale brought only \$2,575, although they had cost the pilots \$24,509.

- (iii) The Department also committed itself to pay out of public funds the cost of board and lodging for pilots waiting at Father Point or Chicoutimi. Up to then, the pilots had lived aboard their schooners at the station and food could be obtained at low cost. The new pilot vessels did not provide living accommodation and the pilots had to find board and lodging ashore at Father Point at much higher cost.
- (iv) The Government also assumed responsibility for the expenses of the two pilot stations at Quebec and Father Point.
- (v) In order to reduce the number of pilots, because then they were in excess of requirements (in 1904 they were at the maximum strength permissible, i.e., 125 pilots, sec. 24, 1886 Pilotage Act and sec. 443, 1906 C.S.A.), the Department, again out of public funds, granted an extra \$300 pension to all pilots who would retire upon reaching the age of 65, or when found physically unfit, in addition to the pension provided out of the Decayed Pilot Fund (P.C. 2179 of 5 Dec. 1906, Ex. 1456(i). In the 1963-64 Department of Transport estimates p. 426, vote 115, the payment of four such pensions was still provided for. Before 1905 when there was no age limit, a pilot was allowed to work as long as he was in good health, and men were often seen on the active list at 78 or even 80 years of age (Ex. 1456(k), p. 20).
- (vi) The office of Superintendent was re-established. He was the local representative of the Pilotage Authority, paid out of public funds but selected from the pilots.
- (vii) All the pilots were re-examined to ascertain their qualifications and their knowledge of the compass and the charts of the river between Father Point and Quebec.
- (viii) The pilots lost their representation on the Pilotage Authority. Sec. 93, 1886 Pilotage Act, which made the President of the Pilots' Corporation an *ex officio* member of the Authority, was no longer applicable since it was not retained in the 1906 C.S.A.
- (ix) The pilots lost their automatic representation on the Board of Enquiry where, up to then, one pilot had always sat as an assessor. In the 1908 amendment (7-8 Ed. VII c. 65 s. 30) the assessors were to be appointed by the Minister at his discretion.
- (x) The Quebec Pilotage Authority ceased to be a court of record—a power held by both Trinity House and the Quebec Harbour Commissioners when they were Pilotage Authority.

Items (ii), (iii), (iv) and (v) were agreed upon between the pilots and the Government in March, 1906, as compensation for the increased length of pilotage trips and in lieu of a tariff increase. At the same time, the pilots agreed to submit to an examination as to their qualifications, which in fact was held commencing March, 1906 (Ex. 1456(k), pp. 14-16 incl.).

In 1911, the Minister of Marine and Fisheries tried to make pilotage compulsory in the Districts of Montreal and Quebec by an amendment to sec. 473 of the 1906 C.S.A. When the matter came before the Committee of the House, the different interests for and against the Bill consulted with the Minister and mutually agreed to withdraw the pilotage provision from the Bill (Lindsay Report, Ex. 1325, p. 20).

The number of pilots was effectively reduced so that in 1912 there were 73 active pilots and 22 apprentices. Of the 33 pilots on pension, 20 were receiving the \$300 extra pension from the Government. On March 14, 1912, a By-law amendment increased the duration of apprenticeship to seven years; four ocean voyages had to be performed during the winter months and a mate's certificate coasting was required (Ex. 1464(d)). The apprentices were still indentured to the Pilots' Corporation. Their notarial document made reference to the Minister's authorization and contained a clause to the effect that the apprentice's right to be licensed when qualified could not be exercised until the number of pilots had been reduced below 75 (indenture deed of Apprentice Jos. Adélarde Bernier, Ex. 1456(m)).

However, the administration of the District became so deplorable that in the Lindsay Report it was said "... the conduct of affairs has been in a very mixed condition ..." "The whole system is in the loosest and most unsatisfactory manner."

The advent of the Minister as Pilotage Authority was marked by new attitudes and policies in the administration of pilotage, with the result that the following state of affairs prevailed when the Lindsay Commission was appointed in 1913:

- (i) The C.S.A. and the General By-law were no longer respected as establishing the limit of the authority of those who administered the service, and the legislation imposed by Parliament was ignored by the very Department entrusted by Parliament with the duty of seeing that the provisions of the law were observed.
- (ii) The principle that a Pilotage District should be financially self-supporting was infringed. It was implicit in the appointment of the Minister as Pilotage Authority that District expenses would be paid out of public funds.
- (iii) The principle that pilotage should be locally directed and administered was perforce disregarded because the Minister, being unable



to be present in person in the Districts where he was the Authority, had to operate through the medium of local representatives to whom his powers were more or less delegated.

At that time, there was a series of accidents to vessels piloted by licensed pilots between Quebec and Father Point, which culminated in 1912 in the stranding of the *Bellona*, *Gladstone* and *Royal George*, the double stranding of the *Beothic* and the stranding of the *Manchester Importer*. When it developed that most of these accidents were due to careless navigation by the pilots, the shipping interests placed the blame on the pilotage organization, the lack of navigation schools to train pilots, the closed pilot Corporation and the pooling system which gave equal income "to good as well as bad pilots".

On December 16, 1912, the Shipping Federation of Canada petitioned the Minister requesting the abolition of the Corporation of Pilots and the restoration of the free enterprise system in order to allow shipowners to engage their own pilots. They also urged that a Royal Commission be appointed. They further recommended that the number of pilots should not be limited, since this was not conducive to efficient pilotage because the great incentive for a man to perform his duty efficiently is the knowledge that there are others ready and able to replace him. Therefore, anyone able to pass the pilotage examination should be granted a pilot's licence.

(c) *Lindsay Report—1913*

On January 30, 1913, the Minister of Marine and Fisheries created a Commission under Part II of the Enquiries Act "to enquire into and report upon the law respecting pilotage and its administration in the pilotage districts of Montreal and Quebec, and what changes, if any, are desirable therein". The three members of the Commission were: Chairman, Capt. H. St. George Lindsay, Commissioner of Wrecks, Department of Marine and Fisheries, Ottawa; Members, Thomas Robb, Manager and Secretary, Shipping Federation of Canada, and Capt. Adjutor Lachance, President, Quebec Pilots' Corporation. The first meeting was held in Montreal February 12, 1913. The Commission made interim reports March 4 and March 17, and on April 9 rendered a divided report, Capt. Lachance dissenting. The Commission had heard 132 witnesses.

The Report is very disappointing in the paucity of its information. Unfortunately, the transcript of evidence was not deposited in the Public Archives and could not be located for consultation. The majority report on the Quebec District covers six pages of the twenty-seven page document. The remaining pages contain a preamble, a brief *résumé* of the history of legislation, a report on the Montreal Pilotage District, the text of the two interim reports, some notes on the British Pilotage Bill of 1913 with reference to



compulsory pilotage, a list of the various Acts relating to Quebec Trinity House and the Pilots' Corporation and the minority report of Captain Lachance, which occupies the last four pages of the document.

The report on the Quebec District begins with an introductory remark that the Commission's recommendations are made with a view to improving the service so as "to get (the St. Lawrence route) rid of the reputation which it has at present with underwriters, and which is a handicap on shipowners and reacts on exporters and importers". Unfortunately, apart from pointing out that there had been quite a number of accidents to vessels in the hands of branch pilots which had culminated in a series of strandings in 1912, no explanation is given of what that reputation was nor what was the extent of the handicap to shipowners. No analysis is made of the incidence of these accidents in relation to the total traffic nor are their causes revealed. Hence, it is not known whether they were due to a lack of knowledge and skill on the part of the pilots or to their misconduct or to circumstances beyond their control, such as mechanical failure, etc.

Nowhere in the Report is there any criticism of the behaviour and conduct of the pilots nor of their qualifications; on the contrary, it appears that the shipping interests were quite satisfied.

However, the Commissioners recommended:

- (i) that the Pilots' Corporation be abolished;
- (ii) that the Pension fund be administered by the Minister;
- (iii) that the Superintendent be no longer recruited from the ranks of the pilots;
- (iv) that apprentices be indentured to the Minister and not to the Pilots' Corporation, and that public notice be given when vacancies occurred;
- (v) that pilots not be otherwise employed nor allowed to work outside the District;
- (vi) that the eye-sight test be standardized;
- (vii) that the number of pilots be limited to a minimum of 60 and a maximum of 70;
- (viii) that the retirement age be fixed at 65 years of age plus permissible extensions up to 70;
- (ix) that the tender at Father Point be improved and a launch be provided at Quebec;
- (x) that a chart of the Saguenay River be prepared;
- (xi) that the dues listed in the tariff be reduced to a more reasonable level;
- (xii) that there be only one Superintendent for both Quebec and Montreal Districts and that he be stationed at Quebec;

- (xiii) that a body of Commissioners be appointed with statutory powers to take charge of pilotage throughout Canada instead of the Department; the Commissioners' functions to be partly executive and partly administrative; the executive powers being "the making of orders—to be approved by the Minister and confirmation of Parliament—in reference to the constitution of all local Pilotage Authorities, and the limits of pilotage districts. The examination and settling of the by-laws made by the local authority, regulating pilotage at each pilotage port, and for each pilotage district, and recommending such by-laws for confirmation by the Minister".

The last recommendation was, in fact, the most important one. It implied that the administration of pilotage by the Department had not proved effective or, at least, that it could be greatly improved if it were taken away from the Department. Unfortunately, the grounds for the recommendation were not stated, perhaps because the Chairman of the Commission being an officer of the Department felt ill at ease criticizing publicly the administration of his Minister and his Department. It is strange that this important recommendation was relegated to an appendix and not listed with the main recommendations but was put in the Report in such a way that it could easily be overlooked. This proved to be the case and it appears that the question was never considered by the authorities. (Salient facts of D.O.T. files on Lindsay Commission, Ex. 1456(j).)

It appears that the "cure-all" remedy was to withdraw the management of the service from the Pilots' Corporation and abolish the pooling system. The recommended method of achieving these aims was to do away with the Pilots' Corporation.

The reasons advanced for this course of action are far from convincing and the Commission failed to recommend any alternative system of organization, unless the abolition of the Corporation implied returning, as advocated by the Shipping Federation, to the system that obtained prior to 1860 when the profession of pilotage was open and the pilots competed for assignments.

The first reason advanced was that the change would remove "the thoroughly vicious system of having a dual control," caused by having two Pilotage Authorities, i.e., the Corporation of Pilots, which exercised the real authority, and the Minister, whose authority was nominal only. In support of this assertion the report merely referred to the existing statutes, i.e., the Pilots Corporation Act, the Harbour Commissioners Act and the Canada Shipping Act, which defined the extent and limits of the duties and responsibilities and power of both organizations.

The Report overlooked the facts that the Quebec system differed from the basic system outlined in the Canada Shipping Act and that in Quebec the Authority was responsible for regulating and supervising while the actual

administration was performed by the Pilots' Corporation. If it was considered that the Minister's authority was in fact only nominal, the reasons for the discrepancy between the legal and the factual situation should have been investigated and described, e.g., it would have been interesting to know why the system that had worked well with Trinity House developed into a "vicious one" after the Minister became the Pilotage Authority.

The second reason advanced for the abolition of the Pilots' Corporation was that the system of pooling pilots' earnings "is pernicious, and removes all incentive to a man striving to reach the top of the tree, and gives no inducement to apprentices to become efficient, as all they require is to pass an examination and receive their branch, then take their share of the pool".

The Report failed to substantiate this allegation. Since the pooling system had been in effect for the previous 53 years, most if not all the pilots had been trained and qualified under it and the dire consequences that they attributed to such a system must by then have been obvious. Furthermore, all the pilots had been re-examined in 1906. On the contrary, it appears that the qualifications of the pilots could hardly be improved upon.

It is apparent that this recommendation was merely one phase in the long struggle between free enterprise and the "choice" pilot system advocated by the shipowners on one hand and a controlled pilotage profession and service and the roster system proposed by the pilots on the other. In 1860, the pilots had to compromise and accept the right of the Master to choose his pilot but this concession interfered with the compulsory pooling of earnings in that the chosen pilot was reluctant to work more often than the others if he drew the same share of the earnings. This is what prompted Mr. McIsaac of the Dominion Coal Company to say in his testimony, as quoted in the Report, that "it accounted for pilots stopping work after they had made a regular number of trips, and the result of it was, that the Company having the same pilot for the season, had to take an inferior man, or else pay the regular man a bonus to continue until the closing of navigation". If the Commissioners had investigated Mr. McIsaac's charge, they would have found that the chosen pilot had no right to refuse and, if he did, that the Company was at fault for not having laid a charge before the Pilotage Authority, and that the Company was also at fault for having paid the pilot anything more than the pilotage dues fixed by the tariff. Neither the Corporation of Pilots nor the pooling system could bear any blame for this situation.

This finding was, in fact, a retrograde step. The Governor in Council and the Department could not have been greatly impressed because a few years later they established in all major Pilotage Districts (except the Montreal and Quebec Districts) compulsory pooling of the pilots' earnings under



the control and management of the Pilotage Authority. Moreover, pooling is so much a part of an efficient pilotage service that it has been adopted the world over.

As a point of fact, the pooling system concerned only the pilots themselves, and before recommending the abolition of an arrangement which the pilots found greatly to their advantage a survey should have been made to ascertain what was the wish of the individual pilots. Such a survey would have shown that most pilots, if not all, would have advocated its retention and that only a few shipowners were not in favour. Subsequent events showed that such was the wish of the pilots and that, despite the abolition of their Corporation, the pooling system continued to function as unofficially organized by the pilots themselves.

The third and last reason stated in the Report for the abolition of the Corporation was that in 1905, when the Minister introduced the Bill which was to make him the Pilotage Authority, he had mentioned that he advocated the abolition of the Corporation. It is not necessary to discuss the value of such an argument.

For these three reasons the Report concluded that the Quebec System was "vicious" and that the pooling system was "pernicious".

The remainder of the Report is in keeping with the first part. It charged that the Pension Fund was credited with only a percentage of the direct pilotage earnings, that considerable sums of money were earned by the pilots in the shape of expenses and that the earnings of the pilots when acting as Masters of coastal vessels below Father Point were pilotage money. No figures were given and, in any event, these were matters that could have been controlled by an effective Pilotage Authority. It was illegal to charge vessels anything over the tariff and money given voluntarily was not a pilotage due but a gratuity. Furthermore, the Pilots' Corporation was accountable to the Minister for its administration and means were available to exercise efficient control if this was considered necessary.

The Lindsay Commission complained that the so-called by-laws of the District, which had been in use since the Minister took over in 1905, had never been promulgated. This was a flagrant breach of the provisions of the Canada Shipping Act and the circumstances and the responsibility therefor, which obviously lay with the Minister as Pilotage Authority and his Department, should have been investigated.

The Report stated that pilots were often employed otherwise than in the performance of pilotage duties and that on certain occasions there was a shortage of pilots. One branch pilot was Master of the Red Island lightship, another of the Government steamer *Lady Evelyn*, a third of the coasting steamer *Cascapedia*, and tour de rôle pilots often took command of vessels beyond Pilotage District waters.



The obvious remedy was available to the Pilotage Authority in the form of a proper amendment to the by-laws, and the Department itself was to blame for that state of affairs because it was one of the employers.

The Report found that the Corporation was apt to be accommodating to some of its members by keeping them on strength while they did no pilotage duty whatsoever and were apparently making up their time for pension purposes. These illegal favours were indeed abuses on the part of the Corporation if they were contrary to the by-laws, but the Pilotage Authority was in a position to correct the situation if it had thought fit to do so.

The majority report is not any more informative in its other recommendations.

However, in his minority report Captain Lachance is more elaborate and his findings are supported by references to the evidence. *Inter alia*, he expressed the pilots' disappointment that since the Minister took over as Pilotage Authority he had "not thought fit" to abide by the by-laws with regard to the training of apprentices and that, despite repeated requests from the pilots, a boat had not been provided to allow the apprentices to make their mandatory exploration trips in the North Channel and the Saguenay River under the supervision and direction of the Superintendent.

He pointed out that the Department had failed to comply with two of the Enquiry Commission's requests, i.e., to give the Commission a report on the general re-examination of all pilots held March 28, 1906, and a report of the acceptance as pilots of the group of apprentices who were admitted in July, 1904. These records were obviously of great importance to the Commission, one of whose primary duties was to assess the qualifications of the pilots who had been produced by the Pilots' Corporation system.

He also pointed out that responsibility for not having obtained approval for the by-laws did not rest with the Pilots' Corporation, and that in the previous ten years there were only 26 more or less serious accidents out of 10,800 vessels piloted.

In conclusion, he pointed out the source of the trouble, i.e., the conflict between the special pilot system and the tour de rôle system, by referring to the efficient service in New York Harbour where, in 1896, the Sandy Hook pilots formed a corporation based on the organizational principles of the Quebec Pilots' Corporation, including sharing their earnings. He said that "the only difference is that the owners, agents or captains have no right to choose their pilot, they must all take first on turn".

#### *(d) Answer of the Corporation of Pilots*

Such a superficial report could not be expected to satisfy the pilots and their reaction was a formal document entitled "Answer of the Corporation of Pilots to the Report of the Royal Commission" which they forwarded January 22, 1914, to the Ministers, Senators and Members of Parliament in an

effort to prevent the Report being implemented. The pilots charged that the Lindsay Commission was biased and that the real issue of safety of navigation on the St. Lawrence had not been investigated. They affirmed that every member of the Pilots' Corporation was satisfied with the pooling system "and would not like to be deprived of it". They noted that the system had been adopted by the Sandy Hook pilots and also by the 93 pilots of Cardiff, etc. They supported the legality of their stand by quoting the pertinent sections of the Canada Shipping Act (Ex. 1456(k)).

(e) *1914 Act*

However, despite the pilots' efforts, a law (4-5 Geo. V c. 48) was passed in 1914 depriving the Corporation of Pilots of all its powers "with respect to the examination, management and control of pilots and of the pilot apprentices, and the control and management of the pilot schooners, boats and other vessels, the collection of pilotage dues, and the management and control of pilotage". All these powers were vested in the Minister of Marine and Fisheries (not the Pilotage Authority) and the only authority left to the Pilots' Corporation was the management and disposal of the Pension Fund. The Pilots Corporation Act, however, was neither repealed nor amended; it was merely rendered partly inoperative by this subsequent legislation.

(f) *1915 By-law*

The by-law situation was quite confused, as had been pointed out by the Lindsay Commission. The only legal by-laws were those made by the Quebec Harbour Commissioners in 1901/1903. New by-laws drafted by the officers of the Department had been applied since 1906, despite the fact that they had never been approved by the Governor in Council. With the 1914 Act the By-law of the Pilots' Corporation regarding the management of the District became inoperative and new administrative directives had to be issued.

According to the legislation that existed at that time and until it was modified in 1934, there should still have been two sets of by-laws and regulations, one emanating from the Minister as Pilotage Authority, made and approved pursuant to the Canada Shipping Act, and a second set made by the Minister as manager of the service and issued pursuant to the powers that he derived from the 1914 Act and the Pilots Corporation Act. When the managerial powers of the Pilots' Corporation were transferred in 1914, the Canada Shipping Act was not amended and the status of the Quebec District Pilotage Authority remained unchanged and limited as before. This is quite apparent from the 1927 consolidation of the Canada Shipping Act. However, this distinction was not observed in the By-laws. From 1915 to 1934, General By-laws were made and sanctioned under the Canada Shipping Act as if the Pilotage Authority enjoyed full powers of control and managed both the District and the service, with the result that anything that concerned the actual management of the service was *ultra vires* and not enforceable.

The first of these By-laws, which was approved April 29, 1915 (Order in Council P.C. 908, Ex. 1456(n)), conferred on the Minister full control over the management of the pilotage service. The main new features were:

- (i) appointment by the Pilotage Authority of a General Superintendent and of Assistant Superintendents at Quebec to have immediate control of pilotage affairs in lieu of the Pilots' Corporation;
- (ii) a Pilots' Committee of six to replace the Board of Administration of the Corporation as representatives of the pilots;
- (iii) licences lapsing at 65 years of age but reissuable until the pilot reached 70 years of age when retirement was compulsory;
- (iv) licences withdrawable on the ground of incapacitation, upon receipt of a written and signed complaint the matter to be investigated by a person appointed by the Authority, the evidence taken under oath, with the pilot concerned being allowed to attend, to adduce evidence on his own behalf and to be assisted by legal counsel, the Authority to act upon the findings of the enquiry;
- (v) in the distribution of assignments the right of shipping interests to select their pilots retained although in a somewhat restricted way, regular line agents allowed to make arrangements with pilots to become their "special service pilots" who were not subject to the tour de rôle unless there was an emergency, the Superintendent or Assistant Superintendents to despatch pilots to vessels not provided with special service pilots giving the Master or agent his choice of the first three tour de rôle pilots on the list;
- (vi) the pilots not to be otherwise employed nor allowed to go outside District limits;
- (vii) billing for pilotage dues done by the Superintendent from source forms, i.e., information obtained by the pilots from the officers in charge of vessels, but payment to be made to the pilots individually, except for the Pension Fund contribution that was payable to the Customs Officer for remittance to the Pilots' Corporation. The factual situation was different; it appears that the Corporation continued to receive from the Superintendent the dues collected because on May 8, 1915, P.C. 1048 amended the By-law to specify that the payment of dues had to be made to the pilot "in person" (Ex. 1456(n)).

(g) *1916 Amendment to C.S.A.*

In a 1916 amendment to the C.S.A. (6-7 Geo. V c. 13) Parliament abandoned its control over apprenticeship in the Quebec District. The requirements for Quebec apprentices listed in the C.S.A., The Trinity House Act, etc., were abrogated and were declared matters that the Pilotage Authority would henceforth define in by-laws. The maximum number of pilots



continued to be set in the Act at 125, despite the Lindsay Commission's recommendation that their numbers should be reduced to a maximum of 70 and a minimum of 60.

(h) *1916 By-law*

In 1916, this change in the statute was reflected in the By-law which made full provision for the training of apprentices (P.C. 638, dated April 18, 1916 (Ex. 1456(n))). The same By-law provided for the appointment of "Assistant Superintendents at Quebec and Father Point" and made it no longer permissible for a pilot to obtain leave of absence for the purpose of taking another occupation at sea. However, sec. 32 of the 1915 By-law, which prohibited a pilot from being otherwise employed or from proceeding outside District limits, was repealed. This had been one of the recommendations of the Lindsay Commission but there had been protests by the shipping companies which employed pilots for navigation in the Gulf against its immediate implementation, and it was decided to give these companies time to reorganize (Ex. 1456(j)).

(i) *Robb Royal Commission—1918*

In 1918, the pilotage system in Quebec was investigated again, this time by a Royal Commission appointed to enquire into, and report upon, conditions in the Pilotage Districts of Miramichi, Sydney, Louisbourg, Halifax, Saint John, Montreal and Quebec and to recommend any changes found desirable.

Apparently, this enquiry was to investigate the state of pilotage in general and had not been prompted by any particular problem as far as the Quebec Pilotage District was concerned. It was originally convened to investigate the pilotage system and its administration in Halifax, Saint John, and Sydney (P.C. 264 dated February 1, 1918, Ex. 1456(t)). Its mandate was later extended first to include the Districts of Miramichi and Louisbourg (P.C. 458, February 28, 1918, Ex. 1456(t)) and then the Districts of Montreal and Quebec, as well as other matters concerning public safety (P.C. 786 dated March 28, 1918, Ex. 1456(t)).

The President of this Commission was Mr. Thomas Robb, Shipping Agent and Secretary of the Shipping Federation of Canada and one of the members of the 1913 Lindsay Commission. The two members were Mr. James Nunn Bales, Deputy Port Warden, Montreal, and Captain James W. Harrison, an employee of Furness, Withy and Co., Ltd., Halifax (Ex. 1456(t)). Messrs. Robb and Bales were also requested to carry out a similar investigation in the Pilotage Districts of Vancouver, Victoria, Nanaimo and New Westminster.



On the Quebec District situation the report is brief (Ex. 1328). It was found that the administration of pilotage affairs had greatly improved since 1913 due to the adoption of a system of record-keeping similar to that in force in Montreal.

The Commission found that, despite the Report of the Lindsay Commission and the 1914 Act (4-5 Geo. V c. 48), the Quebec Pilots' Corporation was still functioning and managing the service, collecting the dues, and deducting administrative expenses, i.e., staff salaries, office expenses, directors' indemnities, legal fees, rent, etc.

The Commissioners learned about the litigation between Pilot Joseph Paquet and the Pilots' Corporation concerning the rights of the Corporation to his pilotage earnings. Pilot Paquet had been ordered by the Quebec Court of Appeal to pay the Pilots' Corporation the sum of \$532.78 pilotage dues he had collected during the 1917 season up to July 2. The Corporation maintained that the collection of pilotage dues was a right of the Corporation because the Quebec Pilots Corporation Act had not been abrogated in that respect, while Paquet claimed that the dues belonged to him because the rights of the Corporation had been withdrawn by the 1914 Act. The Superior Court had dismissed the Corporation's action but its judgment was reversed in appeal. The Robb Commission felt strongly that the attitude taken by the Pilots' Corporation was contrary to the provision of the 1914 Act and also disregarded the Lindsay Commission's findings. Since Pilot Paquet was not financially able to pursue the case, the Commission recommended that the suit be brought by the Government to the highest tribunal in order to obtain a final decision.

The Commission further recommended the abolition of the \$300 special pension given to the Quebec pilots who were retired or about to retire on the ground that it was unwarranted and discriminated against the pilots of other Districts who had all requested the same privilege. It was noted that the aim of the Government in 1906 to reduce the number of pilots to 75 had been reached long before but that for some unknown reason the practice had been continued. It observed that "nothing but a strained interpretation of the Order in Council of December 5, 1906 can be advanced in support of continuing the practice once the number of pilots was reduced to 75".

The Commission recommended that part of the expenses of the District be paid out of the pilots' earnings and that the Pilots' Corporation be dissolved. It felt that the saving in the Corporation's own expenses would leave the pilots' remuneration unaltered.

Various recommendations were made about tariff, not affecting its governing principles but with reference to the amount of various items. In addition, the Commission protested against the \$12 bonus per trip still being paid by the shipping interests to the "special pilots", which aggregated about

\$5,000 in extra earnings in 1917, and rightly condemned this as a pernicious and illegal practice that should be discontinued.

The Commission also objected to the Crown paying for the board and lodging of pilots and apprentices while they waited at Father Point and Chicoutimi (which amounted to \$6,143.07 in 1917) on the grounds of discrimination against the pilots in other Districts. It recommended that a small increase in pilotage dues be granted in lieu.

The foregoing is the gist of the Robb Report as far as Quebec is concerned. For a Royal Commission, it was a very superficial investigation, unless the intention was merely to make a brief inspection of the Quebec District while the Commission was investigating the problems of other Districts. In *résumé*, it found that the administration was good, that the shipping interests were satisfied and that the only unsatisfactory features were that the Pilots' Corporation was still operating and the Government was showing favouritism by giving the Quebec pilots indirect subsidies that were not available elsewhere.

The Commission also made general recommendations of which the following were applicable to the Quebec Pilotage District:

- (i) the use and possession of intoxicating liquors be strictly dealt with;
- (ii) gratuities and solicitation by pilots be strictly prohibited;
- (iii) no pilot be allowed to perform any pilotage duties outside his own District;
- (iv) when Superintendents were appointed, new sets of by-laws be drawn up defining their duties with provisions for the management and conduct of pilots, etc.;
- (v) the system of apprenticeship, which had not been found satisfactory in the Pilotage Districts of the Maritime Provinces, be abolished not only there but also in the Quebec District (but not in the Montreal District); that public notice be given of vacancies; that candidates be duly examined; and preference be given to applicants with sea-going or coasting certificates;
- (vi) the management of the Pilots' Pension Fund be assumed by the Department;
- (vii) the pooling system be abolished because it "tends to maintain a monopoly for a body whose interests are not identical with the best public interests, when they are aware that they get a share of the pool whether they work for it or not, and whose services may not be so readily or cheerfully given as if the employment depended on efficiency and competency and the amount of work obtained depended upon each individual pilot". The solution suggested was that the Minister become the Pilotage Authority for all Pilotage Districts in Canada, "that the pilots be put on a salary which can

be adjusted to meet the requirements of the local district", that all pilotage services throughout Canada "be made and supported by the shipping", and that the earnings of all Districts be pooled in order that the pilots in Districts with low remuneration might receive adequate pay. The Commission expected that the Department would not find it difficult to persuade the pilots to agree to their proposals.

Unfortunately, once again the Report is not informative but merely contains recommendations and far reaching judgments which are made without the reader knowing, or being able to verify, whether they were warranted by the facts, e.g., abolishing the apprenticeship system in Quebec but not in Montreal and replacing the pooling system by making the pilots salaried employees. It would have been most interesting to know, for example, what the Commission discovered about the extent of the monopoly that the Pilots' Corporations had acquired through the pooling system and the instances that the Commission found of the pilots' interests conflicting with the public interest.

(j) *Paquet Case*

As recommended by the Robb Commission, the Attorney General for the Dominion of Canada intervened as a co-appellant in the Paquet case and on July 22, 1920, the Privy Council (1920 A.C. p. 1029) reversed the decision of the Appeal Court and confirmed Paquet's stand that the Pilots' Corporation had no right to his dues, despite the fact that he had remained a member of the Corporation. It was held that the right to collect the dues earned by a pilot which the Pilots' Corporation had pursuant to the 1860 Act had been transferred by the 1914 Act to the Minister and that, therefore, the Corporation had no right of action against pilot Paquet for the dues he had himself collected. (Part I, pp. 66 and 187.)

(k) *Pilots' Association*

Despite sec. 37 of the 1915 By-law as amended May 8, 1915 (P.C. 1048), which specified that the dues were to be paid to the pilot who had earned them "in person", it is apparent that the Pilots' Corporation continued to make collections and that the earnings were still pooled. Following the Privy Council judgment the Minister took a further step to ensure that payment was actually made to each pilot by amending sec. 37 of the 1915 By-law so that the Pilotage Authority was made responsible for collecting the dues (P.C. 737 dated March 12, 1921, Ex. 1456(n)).

The extent of the Privy Council judgment was that the Pilots' Corporation could not force the pilots to pool their earnings. The pilots reacted immediately and unanimously (dissident pilot Paquet had died before the final judgment was rendered) and bound themselves by a deed of partnership for the express purpose of maintaining the pooling system (Ex. 592(a)).



The name of the Association was "L'Union des Pilotes licenciés pour le Havre de Québec et au-dessous" (Part I, p. 84).

The deed was for a period of 25 years. In addition to the clauses dealing with pooling, other clauses covered such subjects as the payment of indemnity to suspended pilots and sickness benefits. No active pilot could withdraw from the partnership without unanimous consent unless he ceased to be a pilot, in which case the withdrawal was automatic, the partnership continued to exist for the remaining partners and any pilot who left the Union in this manner could claim only his share of the monies earned up to the date of his departure. All the pilots bound themselves to remit to the Association all their pilotage earnings with the proviso that the engagement would become void if the pilots became government employees at a fixed salary. The deed could not be modified or annulled except with the consent of 90% of the members. A Board of Directors was provided to administer association business.

At the same time, another deed was signed entitled "Acte du Mille Piastres", the purpose of which appears to have been the liquidation of the assets of the Pilots' Corporation: it had been considered that a pilot's share in the Corporation assets was worth \$1,000.

On May 21, 1924, a new partnership deed was signed under the name of "L'Association des Pilotes licenciés pour le Havre de Québec et en aval". It superseded the previous partnership Act and was later extended to May 21, 1980. From time to time some of its clauses were amended, *inter alia*, the majority needed for the amendment or revocation of the deed was lowered to two-thirds of the members, as was the majority needed to authorize the Board of Directors to make an expenditure or act in a law suit. Certain other expenditures were authorized, e.g., offerings in the case of a death, the cost of entertainment when a pilot retired, the payment of Guild dues and the travelling expenses of delegates.

It was difficult for the pilots to lay down rules for pooling their earnings since pooling and despatching normally are handled by the same authority in order to ensure that both assignments and remuneration are distributed equitably. Assignments vary according to type of ship, weather conditions, amount of pilotage dues, etc., so that at times the longest and most strenuous trips are the least remunerative. Under these circumstances, a common fund is the most effective counterbalance. However, when despatching was taken away from the pilots in the Quebec District they could neither control the allotment of pilotage work nor operate a truly equitable pooling system.

Hence, in the hope that the Pilotage Authority would despatch according to roster, the pilots decided to establish a system of distributing earnings on the basis of work performed by each pilot, disregarding the actual dues paid for each assignment, and created an equivalent work unit, called a *turn*. In the rules adopted by the Association the *turn* was of the same value for all



pilots and formed the basis for calculating each pilot's remuneration so that all pilots with the same number of *turns* received the same amount of money. The *turn* system is still in use in the Quebec District and the Pilotage Authority has retained responsibility for despatching.

The Pilotage Authority recognized the system and has always remitted to the Association, rather than to the individual pilots, all pilotage monies that remained after deducting the compulsory contributions to the Pilot Fund. A compelling reason for this practice is that, without exception, all the pilots who were licensed since 1924 have joined the Association.

In the end, the shipping interests gained nothing. Their request for a return to the open profession of pilotage and the free enterprise system was denied but they retained essentially the same rights as before: regular lines were allowed to choose their "special service pilots" and in other cases the Master's right of selection was reduced to the first three names on the list.

The pilots did not find this method of pooling as complete and effective as before, but they were relieved of a substantial part of the cost of administering the District. In fact, their situation had changed little and had actually improved slightly. On the legal side, however, there had been a serious set-back because their Association did not enjoy the status of a closed professional corporation and they had no legal means to force any pilot to join their partnership.

As for the Pilotage Authority, nothing had changed. The Minister *per se*, however, had assumed onerous duties and responsibilities related to the management of the service which were to prove extremely troublesome.

(1) *1927 C.S.A.*

When the C.S.A. was consolidated in 1927 (1927 RSC c. 186), nothing affecting the Pilotage District of Quebec was added to the 1906 version as amended.

The consolidation of the Act created a confused legal situation because of the way the 1914 Act was incorporated. The distinction between the two functions of the Minister was retained, i.e., as Pilotage Authority he still had the same powers the Quebec Harbour Commissioners had enjoyed (sec. 395), but as administrator he had all the powers of the Pilots' Corporation and even more. For instance, as Pilotage Authority, his By-laws had to be approved by the Governor in Council but he could administer the service as he saw fit. However, no penalties were provided to enable him to enforce his decisions.

The combined (and certainly unwanted) effect of the abrogation of secs. 1 and 2 of the 1914 Act and of the adoption of secs. 491 and 492,

1927 C.S.A., was the re-establishment of the rights of the Pilots' Corporation over the earnings of the pilots. Otherwise, these sections as amended in 1927 would have been meaningless. They read as follows:

"491. The Minister shall have power, from time to time, to select any of the pilots, members of the Quebec Pilots Corporation, to be masters of any schooners under his control, and to remove them.

492. The Minister may pay out of the funds of the Quebec Pilots Corporation to each of its directors, and shall pay to each of the masters of the schooners of the said corporation a remuneration not exceeding in any one year one hundred dollars over and above such director's or masters's share in the net income of the said corporation."

Sec. 493 re-established the functions of the Superintendent of Pilots, although he was not called by that name. He was the appointee and representative of the Minister (but not of the Pilotage Authority) and his function was to manage the service at the local level in lieu of the Corporation Directors of the former organization.

(m) *1928 By-law*

On May 10, 1928, the Minister as Pilotage Authority made a new By-law (Order in Council 800, May 10, 1928) that was to remain in force until replaced on February 7, 1957 (P.C. 1957-191, Ex. 429) by the one in force at the present time. The 1928 By-law was amended 27 times (Ex. 1448) before being abrogated.

This By-law was primarily a consolidation of the 1915 By-law as amended. It retained the previous system of organization and added five new features:

- (i) For the first time it contained definitions, of which two are worth noting:
  - " 'Superintendent' means the officer of the Department of Marine and Fisheries appointed as Superintendent of Pilots or Assistant Superintendent or any other officer of the said Department duly authorized by the Pilotage Authority;
  - "Vessel" includes every sort of ship in tow or otherwise except a scow;"
- (ii) The payment of dues was said to be compulsory. Such a regulation did not come within the competence of the Pilotage Authority, but at the time it was merely repeating the provisions of sec. 455, 1927 C.S.A.
- (iii) The criterion for establishing the number of pilots within the 125 maximum fixed by the Act (sec. 423 C.S.A.) was modified to read "on the basis of fifty pilots for each 3,500 trips per annum".
- (iv) While the "special service pilots" were retained, the remaining limited right of the Master to choose his pilot was cancelled and he had to accept the first pilot on the list.
- (v) The Superintendent was given disciplinary powers of his own.

Up to 1934, this By-law had been amended three times: in 1928 (P.C. 2269 dated January 12, 1928), to give a special meaning to the term "sea going" when used in connection with apprenticeship requirements; in 1932 and 1934, two in a series of annual amendments to the tariff rendered necessary by the economic depression. These were made at the request of the Shipping Federation and took the form of an overall reduction of 5% for one year (P.C. 821 dated April 15, 1932) and the next year for 7% (P.C. 913 dated May 8, 1934).

(n) *1933 Amendment to C.S.A.*

In 1933, an amendment to sec. 414 C.S.A. (23-24 Geo. V c. 52) introduced the office of Superintendent of Pilots as the local representative of the Minister as Pilotage Authority. To him and to other persons the Minister as Pilotage Authority could delegate any of his functions, provided the delegation was effected in by-laws duly approved by the Governor in Council. This is the origin of the present sec. 327 C.S.A.

(o) *Gibb Report and National Harbours Board*

In 1931, Sir Alexander Gibb, an outstanding English port engineer, was requested by the Canadian Government to carry out a survey of the national ports of Canada. *The National Ports Survey, 1931-32* (Ex. 1465) led to the creation of the National Harbours Board in 1936 (1 Ed. VIII c. 42). The National Harbours Board at the outset assumed responsibility for administration for the harbours of Montreal, Trois-Rivières, Quebec, Chicoutimi, Saint John, N.B., and Halifax. Federally appointed local Commissions for these harbours and Vancouver were abolished and replaced by the N.H.B. and all Acts pertaining to them were repealed. The harbour of Churchill was transferred from departmental administration to the N.H.B. in 1937, and the harbours of St. John's, Nfld., and Belledune, N.B., recently.

The present responsibilities of the National Harbours Board for navigation within harbour limits correspond to those previously held by Trinity House and by the Quebec Harbour Commissioners, but these do not include pilotage.

(7) THE MINISTER AS PILOTAGE AUTHORITY  
PURSUANT TO C.S.A.—1934 TO DATE

(a) *1934 C.S.A.*

Following the Statute of Westminster in 1931, a new C.S.A. was passed in 1934 (24-25 Geo. V c. 44), revoking, *inter alia*, the previous statutory legislation dealing with pilotage.

In this field, the main feature of the new Act was that it did away almost completely with what still remained of the special systems that obtained in some Districts. Halifax and Saint John, N.B., were fully integrat-



ed and all references to their special status were deleted from the Act but the process was not that thorough in the Districts of Montreal and Quebec.

Perusal of the Act suggests that when it was first drafted the intention was that these two Districts should also be made to conform to the common system but that, both while the Act was being prepared and during its adoption by Parliament, modifications were made with the intent of retaining some of the features (often termed acquired rights) contained in previous statutes. The result was that these were incorporated somewhat hastily without ascertaining whether there was general agreement with the remainder of the Act as redrafted. A confused legal situation was created with respect to the equivocal status of the Pilotage Authority, the contentious power of the Governor in Council to modify the limits of these districts and the legality of the compulsory payment system. This unsatisfactory state of affairs has not been corrected and still persists (vide pp. 7-10).

All that remained of the special organization which the Quebec Pilotage District inherited from the Trinity House Act and the Pilots Corporation Act was abolished (except the Decayed Pilot Fund) and with a few exceptions the legal structure of the Quebec District was made to conform to the structure of the other Districts. Parliament retained control over the existence of the District and who should constitute its Pilotage Authority, the imposition of the compulsory payment of dues and the prohibition of the use of pilotage monies to meet District expenses.

The Minister, as such, no longer had anything to do with the administration and provision of pilotage services in the Quebec District. All references to the functions he had inherited from the Quebec Harbour Commissioners as Pilotage Authority and from the Pilots' Corporation through the 1914 Act were abrogated and he was left with the limited licensing and related powers enjoyed by a regular Pilotage Authority.

The Quebec Pilots' Corporation retained only the administration of the Pension Fund (Decayed Pilot Fund). All other references to this Corporation were deleted, including its definition in the interpretation section and the special chapter dealing with its powers and responsibilities.

The statutory right of appeal to the Quebec Superior Court, which the Quebec pilots had enjoyed (secs. 538 and 539, 1927 C.S.A.), was withdrawn.

The only amendments to the By-laws between 1934 and 1938 inclusive related to the reduction of the annual tariff to 4 per cent as had been done in 1932 at the request of the Shipping Federation (P.C. 913, 1934; P.C. 1047, 1935; P.C. 901, 1936; P.C. 639, 1937) and in 1938 (P.C. 2845, Ex. 1448-4) to make regulation offences the former statutory offences that had been deleted from the Act in 1936 and made subject-matters of the Pilotage Authority's regulation-making power (1 Ed. VIII c. 23 s. 361).



Because maritime trade was reduced considerably during the war years, a surcharge of 15 per cent, later increased to 25 and 30 per cent, was imposed to provide sufficient revenue to maintain an adequate pilotage service.

(b) *Cannon Report—1942 (Ex. 1456)(p)*

On July 26, 1940 (P.C. 214-3404) the Honourable Lucien Cannon, District Judge in Admiralty, was appointed sole member of a Commission of Inquiry convened to inquire into the problems created by the navigation of small vessels on the St. Lawrence River, and also into the pilotage situation in the St. Lawrence-Kingston-Ottawa Pilotage District. On August 15, 1941, new instructions were issued to the effect that the inquiry was to be conducted on a departmental basis and that it should be restricted to the navigation of small vessels on the St. Lawrence, from Montreal to the sea. The reasons for the inquiry are quoted in the report as follows:

"Since 1920, numerous complaints were heard against the navigation of small vessels, following accidents, wrecks, mishaps, dangerous and hazardous methods of seamanship.

The maritime enquiries, held during that period, revealed unsatisfactory condition.

The loss of human life was rather heavy, the material damage considerable, the danger to navigation disquieting.

The St. Lawrence, being one the most important shipping lanes in the world, is used by thousands of vessels from many different countries; its navigation is subject to international convention and treaties, which are binding on Canada; so that our government must secure its safety through a strict observance, by all of the law, rules and regulations relating thereto."

He found that small vessels conducted a considerable trade which was most useful and that their disappearance would be disastrous because the large shipping companies would be unable to fill the gap; a great number of these vessels were owned by farmers who were not real seamen and the schooners were operated by them on a family basis; many Masters did not hold any certificate, either of service or of competency; some small craft ventured into narrow waters without charts or essential navigational instruments; many operators had little or no knowledge of the rule of the road; signals were often either unheeded or misunderstood; pilots and Masters of the large ships had acquired the bad habit of not giving the prescribed signals when they met or overtook small ships; too often when the Masters of the "lakers" had cleared the canals they continued to follow their own rules; and the rules and regulations were often infringed but the penalties provided for such cases were never imposed.

He recommended that navigation on the St. Lawrence River be adequately regulated; a maritime patrol be provided to supervise traffic movements as was done on the St. Clair River; effective penalties be provided through a simple, summary procedure administered by competent and experienced officials whose decisions were to be subject to appeal to the

Minister; small vessels be adequately classified; educational facilities be provided for the operators of these small craft; and official publications relating to navigation on the St. Lawrence be more widely distributed.

The Department of Transport reports that these recommendations have been implemented in part, and that the conditions complained about have greatly improved since the inquiry. However, the Department notes that Canada has never yet risen to the expense of a patrol vessel on any of its waters except the very thinly spread out facilities of the R.C.M.P. and that the Department of Justice has never extended any sympathetic help to the Department of Transport in any efforts to impose summary sanctions on offenders against any regulations. Nevertheless, when pilots have complained the Department of Transport has always said that, if they could identify the offenders and were willing to give evidence in court, the Department would be prepared to take appropriate action. River boats are now classed as steamships and are subject to steamships inspection and to the requirements of certificated Masters and engineers when over ten tons gross tonnage. Educational facilities have been provided and everything possible has been done to assist Masters of river boats to obtain the knowledge they require to receive certificates. Educational facilities are now in the hands of the Provincial Government (Ex. 1456 (p)) (vide pp. 235 and ff.).

(c) *St. Lawrence River Ship Channel Committee 1946*

On February 27, 1946, the Deputy Minister of Transport assembled a committee, under the name of "The St. Lawrence River Ship Channel Committee 1946" to determine possible improvements to the St. Lawrence Channel. It was then a three-man committee composed of representatives of the National Harbours Board, Department of Public Works and Department of Transport, St. Lawrence Ship Channel Division. Its terms of reference were, *inter alia*:

"to consider the whole Ship Channel situation, from the head of navigation (including Montreal Harbour) to the Gulf of St. Lawrence and, in the light of present trends in shipping, both to the port of Quebec and the port of Montreal (including oceangoing and small river crafts) and to make recommendations as to the width and depth of the channel which can usefully and economically be justified;"

On December 1, 1946, the Committee forwarded its Report. After studying the channel, the traffic and the types of merchant ships that were anticipated, it recommended "the works that should be performed to achieve" the necessary improvements in the channel. It noted that since the 35-foot North Channel was opened in 1937 the old South Channel had been little used and then by a few of the older pilots only. As a result of siltation its depth was only 22 feet at low water and the Committee found no justification for any expenditure to improve it (Ex. 1456 (q)).

This is not a standing committee. When similar committees are required they are convened by the Deputy Minister of the Department of Transport.<sup>5</sup>

(d) *Survey by Captain F. S. Slocombe*

On March 4, 1947, Captain F. S. Slocombe of the Department of Transport reported on his survey of seven Pilotage Districts including the Quebec District (Ex. 1452, pp. 66-82). His Report contained the following points of particular importance to this Commission:

- (i) "*Special Features.* Pilotage between Father Point and Quebec includes both Gulf and River pilotage. That is, for over half of the distance compass courses may be laid. The Gulf is twenty miles wide at Father Point, gradually narrowing to dredged and buoyed channels. The Saguenay River is a narrow steep-sided gorge with deep water, similar to some of the channels on the British Columbia coast.

... Previous to 1906 the pilot station was at Rimouski, and when the pilots consented to extend the District to Father Point it was agreed that facilities for boarding should be provided by the Government, The C. G. S. "CITADELLE"... the "ABRAHAM MARTIN"... These vessels are operated as Government vessels at no cost to the pilots. The "CITADELLE" has accommodation for Quarantine and Customs officials, in addition to sleeping accommodation for eight pilots.

At Quebec also, there is no expense to the pilots involved in boarding or disembarking pilots. The Department maintains a float at the Pilotage Office, and private motorboat companies contract to carry pilots to and from ships. The cost of this service is met by the Shipping Federation of Canada, Inc., on behalf of the shipowners or agents concerned.

Activity in the District is seasonal, there being no pilotage between the end of December and the end of March. During some seasons fog is frequent, and weather conditions are often severe in the Spring and Fall. Buoys must be taken in while ice conditions permit in the Fall, and pilotage must often be performed without these aids to navigation."

- (ii) "*Entry into the Service:* No person can become a pilot in the Quebec District without first serving an apprenticeship. Apprentices are licensed by the Minister as the service requires. . .

Officially an apprentice pilot receives no remuneration, but some ship-owners provide a small gratuity for services performed. Nevertheless, the By-laws require that during the whole season of navigation an apprentice must hold himself ready for assignment by the Superintendent to any vessel being piloted. . .

There will be 21 apprentice pilots for the 1947 season."

- (iii) "*Conditions of Service:* When a pilot is licensed there is no probationary period, he must take his regular turn with the other licensed pilots.

There are at present fifty-four pilots on the roll. Of these, twenty-four are special pilots for certain companies. . . A pilot assigned to such special service must, in addition, perform tour-de-rôle work if the exigencies of the service

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<sup>5</sup> A similar committee called the "St. Lawrence Ship Channel Committee 1965" was established January 20, 1965, by order of the Deputy Minister under the chairmanship of Mr. H. L. Land, Chief, St. Lawrence Ship Channel Division, D. O. T., with representatives from the St. Lawrence Seaway Authority, the National Harbours Board and the Hydraulic Studies Division, D. O. T. *Inter alia*, it was required to study the existing and prospective uses of the St. Lawrence River for marine transportation purposes, to recommend the engineering projects needed to achieve the optimum use of the St. Lawrence River Ship Channel and to submit a work programme of study and investigation over a five-year period ( Ex. 1456 (r) ).



require it. It is the practice to require the special pilots to make up the same number of trips during the season as are performed by a tour-de-rôle pilot.

It is the duty of the Assistant Superintendent at Quebec and the Pilotage Officer at Father Point to so arrange that enough pilots are on station at either place to handle the traffic. There is a dormitory provided by the Department in the Pilotage Building at Quebec. At Father Point eight pilots may sleep on the C. G. S. "CITADELLE", but some of the pilots prefer to live at the hotel nearby at their own expense while the vessel is at the wharf. Food is provided on the "CITADELLE" at no cost to the pilots, but if they take their meals at the hotel the Department allows them twenty-five cents per meal. This item costs the Department about \$2,000. per year, and was part of an agreement made with the pilots in 1906.

Pilots live at home until required to report, and all travelling expenses must be paid for by the individual pilot concerned. Pilots perform pilotage either inwards or outwards as directed."

- (iv) "*Revenues and Charges* According to the By-laws all pilotage dues are collected by the Pilotage Authority, who deducts therefrom the amount required for the Pilot's Pension Fund, and pays to each pilot the balance of the dues earned by him. In practice each pilot has given power of attorney to "l'Association de Pilotes Licenciés pour le Havre de Québec et en Aval" to handle his remuneration. The Department therefore deducts from each pilot's earnings 7% for the Pension Fund and remits to the Quebec Pilots' Corporation the total amount of pension deductions... The remaining total, with a paylist showing each pilot's net earnings, is remitted to the Association, and the Department has nothing further to do with it."
- (v) "*Pilots' Remuneration* It is understood that after the Association expenses have been paid the net revenue is divided equally among the pilots, but as far as the Department is concerned a pilot's actual earnings are his own... It will be seen that during the war years, in spite of surcharges of 10% and later 25% on the main rates, the remuneration of the pilots fell considerably, being only \$2,146 in 1942. In 1945 it had risen to \$4,987, but dropped once more to \$ (sic) in 1946.

When considering remuneration of the pilots it may be mentioned that Special Pilots are provided, by the shipowners or agents concerned, with a gratuity of \$12. per trip, which is intended to cover expenses. The Royal Commission Report of 1918 condemned this practice as being a direct contravention of the Canada Shipping Act..."

- (vi) "*Pilotage Dues.* The pilotage rates at present in force for the District of Quebec have remained the same since 1915. They are based on draught only, but change according to season. ..."
- (vii) "*Representations of Pilots*" In résumé, they are as follows:-
  - (A) The rates then in force were inadequate because they dated back about 100 years to sailing ships.
  - (B) The apprenticeship requirements were extremely arduous.
  - (C) "It was felt that pilotage in this District could not be compared with that in any other District in Canada given to the length of the River, involving sometimes 24 hours on the bridge. (It was stated that the upbound trip from Father Point to Quebec sometimes takes as long as 22 hours on a slow ship, while from Father Point to Chicoutimi may take from 15 to 24 hours).

The often adverse weather conditions were referred to, especially with the snow in the Fall, when perhaps the buoys would be taken up. Then at the end of a long pilotage, if the tide serves at Quebec the pilots must dock the ship. ..."



- (D) The pilots charged that the Department had repudiated the 1906 agreement to provide meals and board at Father Point and Chicoutimi: the Chicoutimi allowance had been discontinued and the allowance at Father Point was only one-third of the actual cost of the meals.
- (E) The *Citadelle* was used for many other purposes.

P.C. 1345 dated April 11, 1947 (Ex. 1448-13) approved a new tariff involving an overall increase of about 30 per cent.

It is worth noting that the other amendments to the By-laws included P.C. 3448, dated August 3, 1948 (Ex. 1448-15) which, *inter alia*, gave the pilots a new right and officially recognized the pilots' organization by stipulating that three of the five members of the Board of Examiners had to be members of the Board of "l'Association des Pilotes Licenciés de Québec" selected by that Board.

(e) *Audette Report—1949*

Order in Council P.C. 3978, dated August 10, 1949, convened a five-member committee under the chairmanship of Mr. L.C. Audette, a Commissioner of the Canadian Maritime Commission, to consider and report upon pilotage and related matters in the Pilotage Districts where the Minister of Transport was the Pilotage Authority.

Four general findings are worth noting:

- (i) In a majority decision they recommended against the proposal made by various Pilots' Committees that the Government guarantee minimum earnings, and suggested that the *status quo* be retained, with cases of hardship being studied on their merits, if and when they occurred. They felt that the proposal was "socially, politically and economically unsound".
- (ii) They found that the various pension funds were in a precarious state and recommended that the Government make good the deficit of approximately \$1,500,000, partly as compensation for its share of responsibility in the disaster which had befallen the pilots' pension funds and partly as an *ex gratia* gesture. In addition, they recommended amalgamation of all pension funds in order to provide more stability (vide Part I, C.10).
- (iii) In a majority decision (the pilot members dissenting) they concurred in the Shipping Federation's proposal that the shipping interests be represented on the Board of Examiners of pilots.
- (iv) They also made a recommendation "to consider the establishment of a uniform system to form the basis of tariffs in all Districts... we have attempted to evolve various formulae upon which we could reach firm agreement. In this we have been unsuccessful for a variety of reasons" (Part I, C.6).

The Report is almost silent about the situation in the Quebec District. The two recommendations emanating from the Quebec Pilots' Committee did not receive favourable consideration, i.e., abolition of the veteran's preference policy (sec 11A of the By-law) and the need to regulate ferry traffic. The Report noted the existence of a gentlemen's agreement with the ferries which was working satisfactorily and added "however, if subsequent developments should reveal any abuses on the part of ferries, we do suggest that this matter be reconsidered".

In a separate minority report the Chairman dealt with the official recognition of private pilot organizations and the special pilot system.

Referring to the pilots' associations as they existed in Quebec and Montreal for the purpose of pooling the pilots' earnings, the Chairman viewed "this practice with disfavour and apprehension as it may lead to unfortunate results" such as providing a suspended pilot with remuneration out of District earnings during the period of his suspension and thereby negating the effect of the disciplinary measure. He also noted the constant possibility of inequitable distribution "as a result of the enforcement of majority will agreements contrary to the spirit of the C.S.A. or the By-laws of the districts". The two pilot representatives took exception to the Chairman's views.

Although both the pilots and the shipping interests had urged that the special pilot system be continued, the Chairman advocated its abolition. He referred to the illegal bonus paid over and above the dues, he pointed out that the practice was to the detriment of the tour de rôle and that the appointment of some special pilots "from the ranks of relative fledgelings" had decreased the value of the argument that the system constituted the only way recognition could be given to a pilot to enhance his prestige and acknowledge his superior experience and ability. Instead he recommended something along the lines of the "grade system" that was later adopted in 1960. The pilots' representatives again took exception to the Chairman's views.

In general, the Audette Report is not sufficiently informative. Important recommendations were made but in the abstract without explanation of the extent and nature of the problems to be solved and whether, in fact, they existed. The Report does not indicate where the basic organization failed, whether this was brought about by new developments and, if so, which ones, or in other words why the system that was working well before was now deficient.

(f) *Amendments to C.S.A. (1948-1950)*

The C.S.A. was amended in 1948 to make the corrections necessitated by the creation in 1936 of the Department of Transport out of the amalgamation of the Department of Marine and the Department of Railways and Canals (1 Ed. VIII c. 34).

Immediately following the Audette Report measures were taken to make the Quebec Pilotage Authority responsible for the Pension Fund, as was the case in the other Districts. The 1950 amendment to the C.S.A. (14 Geo. VI c. 26), *inter alia*, abrogated the last remaining power of the Pilots' Corporation, the administration of the Pension Fund, by deleting from the Act the particular provisions concerning that Fund. However, this part of the amendment was not to come into force until it had been specifically proclaimed. The 1950 amendment together with this reservation was incorporated in the 1952 revised version of the Act but to date it has not come into effect because it has not been proclaimed.

In 1956, P.C. 1956-1264 revoked the 1933 Order in Council appointing "The Honourable Alfred Duranleau, Minister of Marine" the Pilotage Authority, *inter alia*, for the Quebec Pilotage District, and in his stead appointed "The Minister of Transport as Pilotage Authority" (Ex. 1143).

(g) *Further Amendments to 1928 By-law*

The 1928 By-law was amended eight times (Exs. 1448-17 to 24 incl.) between 1950 and 1956 when it was replaced by the existing By-law. Exemptions were the subject of five consecutive amendments and the dues were revised twice. The section dealing with eyesight and hearing tests was modified. The sections dealing with apprenticeship were first amended and later completely rewritten in 1956. In 1955, the Superintendent was required to remove from the assignment list any pilot who was, or seemed to be, impaired by alcohol or drugs, and it was further provided that he would not be responsible for any loss of earnings by the pilot if he acted in good faith (Ex. 1448-23). When the statutes came up for periodic revision in 1952 the C.S.A. was consolidated (1952 R.S.C. c. 29) but there was no change in the pilotage section.

(h) *1957 General By-law and Amendments*

In 1957, P.C. 1957-191 (Ex. 429) repealed the 1928 By-law as amended and replaced it with a new By-law. The main changes were:

- (i) The two offices of Assistant Superintendent were cancelled and a revised definition of "Superintendent" no longer made him an officer of the Department, his appointment now having to emanate from the Pilotage Authority.
- (ii) The principle of equalization of trips was made one of the despatching criteria.
- (iii) Pilots were again forbidden to engage in other employment.
- (iv) The inquiry procedure contained in the former sec. 49 regarding complaints about a pilot's physical or mental capacity was omitted.



Between 1957 and 1967 inclusive, the General By-law was amended eight times (Ex. 429), the most important changes being:

- (i) On June 2, 1960, P.C. 1960-756 introduced the system of Grade Pilots in lieu of the special pilot system which was *ipso facto* abolished.
- (ii) On November 25, 1960, P.C. 1960-1601 regulated winter pilotage by prescribing the joint despatching of two pilots on winter assignments (other than movages), and providing for a special tariff, i.e., the lesser of double dues or the regular dues with a \$100 surcharge.
- (iii) On March 23, 1961, P.C. 1961-425 extensively amended the sections of the By-law regarding eyesight and hearing examinations and pilot grades, but mainly regarding entry into the service, apprentices and licensing of pilots. A mandatory period at a Marine School was introduced as a new feature and the minimum length of apprenticeship was lowered to three years.

#### (i) *Pilots' Organizations*

In 1959, after their participation in the debates on Bill S-3 concerning intended amendments to the C.S.A., the Quebec Pilots' Association, as well as the other pilots' organizations in the St. Lawrence River Districts, felt the need for concerted group action and formed the Federation of St. Lawrence River Pilots, the letters patent of which were issued on November 5, 1959, under Part II of the Canada Companies Act (Part I, p. 94).

On May 9, 1960, a large group of the Quebec District pilots incorporated themselves under the name "The Corporation of the Lower St. Lawrence Pilots" although the Quebec Pilots' Association continued to exist (Part I, pp. 84 and ff.).

#### (j) *Pilots' Strike—1962*

The relations between the pilots, the shipping interests and the Department of Transport deteriorated and between April 5 and April 14, 1962, all the pilots of the Federation, including the Quebec District Pilots, went on strike in support of their demands. The appointment of the present Royal Commission was one of the conditions of its settlement; however, the scope of the Commission's inquiry was extended to cover pilotage in all its phases throughout Canada.

#### (k) *Quebec District Tariff Evolution*

Between 1788 and 1956, the following basic changes in the tariff structure are noted:

- (i) In 1799, a difference in tariff for upbound and downbound trips was introduced, the upbound trips being more costly. This feature remained up to 1952 inclusive.



- (ii) In 1812, the year was divided into four periods for tariff purposes: spring navigation, i.e., March and April; the normal navigation season from May 1 to November 10; the pre-winter navigation period from November 11 to November 19; and winter navigation from November 20 to March 1. The lowest rates were for the normal navigation period and the highest for the winter period. This feature was abolished in 1952 when uniform tariff was applicable throughout the year. In 1960, however, a surcharge of 100 per cent, with a maximum of \$100, was introduced for winter navigation, i.e., from December 1 to April 8, because a second pilot was employed.
- (iii) From 1788 to 1952 inclusive, the tariff was based on foot draught only. This was changed in 1952 to a combination of foot draught and NRT, with an NRT minimum of 2,000 tons and a maximum of 7,500. In 1960, the maximum was raised to 15,000 tons.
- (iv) During the depression from 1932 to 1937 inclusive, a yearly decrease varying between 3 and 7 per cent was imposed. Conversely, in the war years, between 1941 and 1944 inclusive when traffic decreased, an annual surcharge of 10 and 25 per cent was imposed to provide sufficient revenue to maintain the pilotage service.
- (v) The tariff structure was not modified either time the seaward pilot station was moved from Bic to Father Point in 1905 or to Les Escoumins in the spring of 1960.
- (vi) The basic rate for the trip from Quebec downriver rose gradually from \$2.20 per foot draught in 1788 to \$3.15 in the summer season in 1812, to \$3.40 in 1888, to \$5.05 in 1947 and to \$5.20 in 1952. Since 1952 it has remained at \$5.20 per foot draught plus  $\frac{1}{2}$  cent NRT which was raised to  $\frac{3}{4}$  cent in 1957.
- (vii) In 1965 a surcharge of 50% on movages and 8% on other pilotage charges was made to provide for an increase in the pilots' remuneration. The latter surcharge was successively increased to 13%, 17% and 22.85% in 1966, 1967 and 1969.

## Chapter B

### BRIEFS

Thirteen Briefs were submitted in connection with pilotage generally and on the St. Lawrence River in particular. Four<sup>1</sup> of these Briefs deal exclusively with pilotage in the District of Quebec and lower St. Lawrence; the remaining nine accord equal importance to all Pilotage Districts on the River. For this reason they are reported here together with the Briefs dealing solely with the Quebec District.

Beyond *specific recommendations* concerning pilotage in the District of Quebec, some of these Briefs contain *general recommendations* for basic reforms in the organization of pilotage. References are made throughout the summary of these recommendations to indicate where the subject matter of a particular recommendation is dealt with in the Report.

The Briefs, which are grouped hereunder according to their respective classifications, are as follows:

#### *Pilots*

- (1) The Federation of the St. Lawrence River Pilots (B.28, Ex. 671);
- (2) The Canadian Merchant Service Guild (B.53, Ex. 1382);
- (3) Capt. Maurice Koenig, Quebec Pilot (B.30, Ex. 571; B.48, Ex. 1352);
- (4) Capt. Lucien Bédard, Quebec Pilot (B.47, Ex. 1323);
- (5) Petition by 21 pilots of the District of Quebec (B.46, Ex. 1322);

#### *Shipping Interests*

- (6) The Shipping Federation of Canada (B.27, Ex. 726);
- (7) The Dominion Marine Association (B.39, Ex. 1134);
- (8) Canadian Shipowners Association (B.55, Ex. 1436);
- (9) Imperial Oil Ltd. (B.23, Ex. 1132);
- (10) Clarke Steamship Co. Ltd. (B.31, Ex. 1345);

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<sup>1</sup> Briefs No. 30, 47, 46 and 33.

*Others*

- (11) Institut de Marine de la Province de Québec (B.32, Ex. 749);
- (12) The Lower St. Lawrence and Gulf Development Ass. (B.33, Ex. 923);
- (13) Computing Devices of Canada Ltd. (B.42, Ex. 1339).

(1) THE FEDERATION OF THE ST. LAWRENCE RIVER  
PILOTS' BRIEF

The Federation of the St. Lawrence River Pilots submitted its Brief in the name of its five member-groups which, in 1966, represented close to 310 pilots operating on the St. Lawrence River between the upper and lower reaches of the River (Kingston-Les Escoumins) (pp. 296 & ff.; Part I, pp. 94-95). These member-groups are:

Association des Pilotes licenciés pour le Havre de Québec et en aval (Les Escoumins—Quebec) (vide p. 266)  
Corporation of the Mid-St. Lawrence Pilots (Quebec—Montreal)  
Corporation of the Montreal Harbour Pilots (Montreal Harbour)  
Corporation of the St. Lawrence River and Seaway Pilots (Montreal—Cornwall)  
Corporation of the Upper St. Lawrence Pilots (Cornwall—Kingston)<sup>2</sup>

The Federation of Pilots, as well as the various corporations mentioned above, are non-profit organizations created under Part II of the then Federal Companies Act (now Canada Corporations Act). One of the objects of the Federation is to represent its member-groups before public bodies and it was in this capacity that the Federation acted throughout the Commission's inquiry<sup>3</sup>.

The Brief is voluminous: it contains some 245 pages. There are 39 general recommendations and several specific recommendations concerning the various Pilotage Districts on the St. Lawrence, of which six pertain to the District of Quebec.

*General Recommendations*

- (a) *The Governor in Council.* The Governor General in Council retains his power to approve orders in council concerning pilotage tariff on the advice of the Minister of Transport who, in turn, acts upon the recommendation of the Pilotage Commissioner (Part I, Gen. Recs. 16 and 17.

<sup>2</sup> The Kingston Pilotage District (Cornwall-Kingston) is in the international section of the River. It is also one of the three Pilotage Districts on the Great Lakes where pilotage is provided under joint arrangements between Canada and the United States.

<sup>3</sup> The objects and powers of the Federation of the St. Lawrence River Pilots are developed further pp. 297 and ff.; vide also Part I, p. 94.

- (b) *The Minister of Transport.* The Minister of Transport remains the political authority responsible for pilotage. He is the link between the Commissioner of Pilotage and the Governor General in Council; he is the authority who issues and revokes licences, on the recommendation of the Commissioner of Pilotage or the body charged with inquiring into maritime accidents. He can revise the decisions of the Commissioner in matters of pilotage tariff, exemptions from compulsory pilotage, changes in the limits of a District, or the establishment of a District (Part I, Gen. Rec. 18).
- (c) *The Pilotage Commissioner* (Part I, Gen. Recs. 16, 17 and 18).
  - (i) A new position is created: Commissioner of Pilotage, which replaces all other positions and functions relating to pilotage in the Department of Transport. It carries the rank and salary of a Deputy Minister. The Commissioner is appointed by the Governor General in Council and retains office at the pleasure of His Excellency. He must be a Canadian citizen who is fluent in both English and French.
  - (ii) The general powers of the Commissioner consist of supervising the efficiency and safety of the pilotage service. The Corporations (or Associations) of pilots submit to him detailed annual financial statements concerning the administration of pilotage itself. If a District does not clearly meet the appropriate standards of efficiency and security, the Commissioner possesses the necessary powers to remedy the situation.
  - (iii) The basic by-laws of the Corporations concerning the operation of pilotage are also subject to the approval of the Commissioner and, in addition, the Corporations must submit their annual budgets for approval outlining the general expenses of administration relating to pilotage itself. Expenses and by-laws of a purely internal nature do not fall under the jurisdiction of the Commissioner (Part I, Gen. Recs. 19, 20 and 21).
  - (iv) The Commissioner adjudicates appeals against the decisions of the local committees on discipline, and he has the power to impose a suspension for a maximum period of two years, and/or a maximum fine of \$2,000. He can also recommend to the Minister that the licence of a pilot be revoked. Further, the Commissioner can appoint assessors in disciplinary matters. The fines thus collected are placed in the pension fund of the Corporation of which the pilot is a member, if such a fund exists or, if not, in the Consolidated Revenue Fund of Canada (Part I, C. 9; Gen. Recs. 26—38).



- (v) The Commissioner convenes public hearings concerning all requests for a revision of the tariff, changing the limits of a District, the creation of new Districts and exemptions from compulsory pilotage. In all cases, he renders a written, reasoned decision and copies are despatched to the parties concerned. A copy is also sent to the Minister of Transport, to whom interested parties can appeal against the decision of the Commissioner. In the case of a revision of the tariff, if the Minister approves the decision of the Commissioner, he transmits it to the Governor in Council for approval by order in Council. In cases involving exemptions, changing the limits of Districts, or the creation of new Districts, if the Minister approves the decision of the Commissioner, he brings it to the attention of the Cabinet with a view to Parliament approving the necessary amendments to the Act (Part I, Gen. Recs. 17, 18 and 19).
  - (vi) In matters other than those mentioned in the preceding paragraph, the Commissioner is not bound to hold public hearings. Except in cases of changing the tariff, exemptions from compulsory pilotage, changing the limits of a District, the establishment of new Districts and the annulment of a licence, the decision of the Commissioner is not subject to review by the Minister (Part I, Gen. Recs. 16—37).
  - (vii) The office of the Commissioner must not be considered an administrative organism, but rather supervisory. The Commissioner would not need more than two assistants (Part I, Gen. Recs. 16 and 17).
- (d) *Consultative Committee* (Part I, p. 506)
- (i) The Commissioner is assisted in the exercise of his duties by a consultative committee of four members, of whom two are appointed by the pilots of Canada, and two others by the shipowners. If the shipowners or the pilots find it impossible to choose their representatives, the Commissioner can organize a vote among the pilots or shipowners to select these members.
  - (ii) The members of this committee are elected for three years, and their mandate is renewable. To ensure continuity, two members shall first be elected for two years, and the others for three years. Elections will be held following the expiration of the mandate of each of these two groups.
  - (iii) The Commissioner must convene this committee at least once a year. The powers of the committee are, however, strictly consultative, and the advice it renders to the Commissioner is not made public.

(iv) The members of the committee are remunerated by the Government, and receive an indemnity equivalent to that paid to part-time members of various Federal commissions.

(e) *Administration by the Corporations.* The entire local administration of pilotage is conducted by the Corporations (or Associations) of pilots. This includes the administration of pilotage stations, pilot boats, telecommunications services for pilotage purposes, the allocation of pilots to ships, and the collection of pilotage dues.

The Corporations administer all movable or immovable property relating to pilotage and can be the owners or lessees of such property (Part I, Gen. Recs. 14 and 25).

(f) *Financial Autonomy.* Each District is financially independent of the others. The funds of a District, or of a section of a District for which there exists a special group of pilots, can not be transferred to another District, or to a section of such District (Part I, Gen. Recs. 8, 15, 20 and 21).

(g) *The Chief Pilot.* The Corporations are governed by a Board of Directors composed of pilots. The president is elected for three years and carries the title of Chief Pilot. In Districts where shipping traffic is heavy and there are a large number of pilots, the office of Chief Pilot will be a full-time position. However, he is permitted to exercise his profession within the District if he considers this necessary.

The Chief Pilot fulfills the rôle of president of the Corporation, and assumes the duties now undertaken by the local Superintendent.

The Chief Pilot is not a mere chairman, but is vested with real powers which appertain to him personally, as well as those powers held by the Board of Directors.

The Chief Pilot receives the highest remuneration of any pilot in his District during the year, increased by 20% (Part I, Gen. Rec. 25).

(h) *Disciplinary Powers.* The Corporation is vested with disciplinary powers in relation to licensed pilots as well as apprentice pilots. These powers are exercised by a disciplinary committee composed of three to five persons, the members of which can be chosen from fields outside pilotage. In the case of smaller Districts, this committee can be composed of a single person. Its powers extend from the light sanction of reprimand to the imposition of a fine of \$500 and suspension for a maximum period of six months. The committee

can also recommend to the Commissioner the imposition of even more severe penalties. The decisions of the committee are in all cases appealable to the Commissioner. The fines collected are placed in the pension fund, if one exists, or if not, they are turned over to charitable projects (Part I, p. 552).

- (i) *Apprenticeship.* Apprenticeship schemes are the responsibility of each Corporation and are subject to the approval of the Commissioner.

Apprentices must receive a reasonable remuneration which is to be paid by the Corporation; these costs are to be considered costs of administration.

Examinations are held before a Board composed of an Examiner for Masters and Mates, the Chief Pilot, and three pilots of the District appointed by the Corporation.

The names of the candidates passed by the Examining Board are transmitted to the Commissioner who requests the Minister of Transport to issue the appropriate pilotage licences (Part I, Gen. Recs. 25-37).

- (j) *Pension Funds.* Retirement plans are left to the discretion of each Corporation, but are subject to the general laws applicable to pension funds. The present provisions of the Canada Shipping Act in this regard must be repealed (Part I, Gen. Rec. 39).
- (k) *Retirement Age.* Each Corporation can provide for optional retirement at the age of sixty years. Commencing at age sixty-five each pilot must submit to a medical examination twice yearly, and his licence is only temporary. Retirement is compulsory at the age of seventy (Part I, Gen. Rec. 32).
- (l) *Number of Pilots.* The number of pilots in each District is determined by the Corporations concerned (Part I, p.255; Gen. Recs. 8, 14 and 25).
- (m) *Agreements between Corporations.* The Corporations are permitted to conclude all kinds of agreements with a view to reducing operational costs, or increasing the efficiency of the pilotage service (Part I, Gen. Rec. 25).
- (n) *Pilotage Legislation.* Special legislation on pilotage, independent of the Canada Shipping Act, should be adopted, except that this legislation might on occasion refer to certain sections of the Canada Shipping Act (Part I, Gen. Recs. 1 and 2).



- (o) *Compulsory Pilotage.* The legislation in matters of pilotage should be changed from compulsory payment of pilotage dues to compulsory pilotage, pure and simple (Part I, Gen. Recs. 22 and 23).
- (p) *Status of the Pilot.* The status of a civil servant, where it exists, should totally disappear from pilotage in Canada (Part I, Gen. Rec. 24; Part III, pp. 210 and ff.).
- (q) *Addition to Legislation.* The limits of the Districts and the exemptions from compulsory pilotage must be defined in the law, and not merely by enacting by-laws (Part I, Gen. Recs. 3 and 17).
- (r) *Responsibility of the Pilot.* The status of the pilot must continue to be that of an adviser to the Master, in reality a "living map". His civil responsibility for damages is limited to the amount specified in sec. 362 C.S.A. (Part I, pp. 22 and ff.; Gen. Recs. 11 and 12).
- (s) *Establishment of Districts.* All areas where pilotage exists must be transformed into Pilotage Districts under the authority of the Commissioner of Pilotage and of the Minister of Transport. The pilots must be duly licensed (Part I, Gen. Recs. 6, 8, 10 and 12).
- (t) *Basis of Pilotage Tariff.* The tariff in all Districts is based on the net or gross tonnage and the draught of the vessel. It must specify the maximum net or gross tonnage as it appears in the certificate of registration of the vessel, in order to cover vessels with "shelter-decks" and "side-tanks".

In the case of movages, the tariff base can be a determinate sum which varies according to the scale of tonnage.

All discrimination in the tariff in favour of coastal or inland water vessels must be removed (Part I, C. 6; Gen. Rec. 21).

- (u) *Tariff: Costs of Pilotage and Expenses of Administration.* The pilotage tariff includes both the costs of remunerating the pilots and the costs of administration. The tariff is, however, divided into two distinct parts, one concerning remuneration of pilots, and the other denoting the cost of administering pilotage (Part I, C. 6; Gen. Recs. 20 and 21).
- (v) *Criteria re Tariff.* For administrative purposes the rates must be established at a level which permits the payment of all the costs of administration. Any surplus would be applied to a reduction in the tariff. The rates for pilotage would be governed by the public interest, the value of the services rendered, the cost to the ship-owners, and the necessity of attracting to the pilotage profession the finest candidates the maritime world can offer (Part I, Gen. Recs. 20 and 21).



- (w) *Cancellation of Departure and Detention.* The amounts paid due to the cancellation of a departure and for detention are inadequate and must be made uniform (Part I, pp. 149 and ff.).
- (x) *Prior Payment of Dues.* The Corporations must be able to request the prior payment of pilotage dues or the deposit of a guarantee if there is doubt about the solvency of a ship or her agent (Part I, p. 200, and Gen. Rec. 11).
- (y) *Indemnity outside the District.* Pilots required to leave their own District or to meet a vessel outside it have a right to an indemnity of fifty dollars per day for each day of absence from their District besides payment of their first class transportation as well as their food and lodging (Part I, Gen. Rec. 11).
- (z) *Detention because of Stress of Weather and Ice.* The "exemption" from detention fees because of stress of weather or ice must be removed for the period between December 1 and April 8. The pilots must also receive, during this period, detention dues for any delay of more than six hours in the scheduled departure of a vessel (Part II, p. 157 and ff.; and Part IV, p. 474).
- (aa) *Two pilots on Board.* Between December 1 and April 8 there must be two pilots aboard each vessel and a double tariff must be charged (Part I, p. 135; Part II, pp. 113 and ff.; Part IV, p. 439).
- (bb) *Pilotage Licences.* The pilots duly licensed by the Pilotage Authority are the only ones authorized to fulfill the duties of a pilot. No certificate of pilot-captain shall be issued authorizing pilotage by the holders of same in the Pilotage Districts (Part I, Gen. Rec. 23).
- (cc) *Penalties.* Penalties imposed upon a Master who does not take a pilot although obliged to do so, as well as sanctions placed on any non-licensed person piloting a vessel, must be increased (Part I, Gen. Recs. 11 and 22).
- (dd) *Procedure in Cases of Violation of the By-laws by the Pilots, and Maritime Accidents.* A specific procedure of inquiry should be established to investigate violations of the By-laws by the pilots. As for inquiries following shipping accidents, the present By-laws must be substantially amended to assure protection of the rights of the interested parties in conformity with the contemporary concepts of justice (Part I, C.9; Gen. Recs. 26-37).
- (ee) *Vessels Lightly Loaded.* Vessels with small cargoes should be required to carry sufficient ballast to guarantee their safe handling on the St. Lawrence River (p. 319).

- (ff) *Radiotelephone*. All ships should have in the wheel-house radio-telephone equipment capable of operating on the appropriate local frequencies (pp. 180 and ff.).
- (gg) *Luminous Signals*. An automatic luminous signal should be attached to ships' whistles or sirens (p. 176).
- (hh) *Wheel-house Instruments*. The rudder angle indicator and the propeller speed indicator (R.P.M.) must be clearly placed and well in view, so that no person can shield them from the pilot or helmsman (pp. 176-177).
- (ii) *Derricks Forward*. Appropriate measures must be taken to have all derricks so placed that they do not obstruct the view of the pilot (p. 914).
- (jj) *Accommodation Ladder*. Ships must always place an accommodation ladder at the disposal of the pilots, except in the locks. This should be so situated as not to endanger the lives of the pilots (p. 320).
- (kk) *Pilot's Cabin*. A cabin must always be placed at the disposal of the pilot in case of delays, anchoring, etc.  
All ships in default thereof must pay a compensatory indemnity to the pilot (p. 320).
- (ll) *Maritime Police*. An adequate system of Maritime Police should be established to supervise the application of the various by-laws affecting shipping (p. 125 and p. 642).
- (mm) *Joint Committee*. A joint Committee composed of representatives of the pilots and shipowners should be established to assist the Government in its implementation of the recommendation of the Royal Commission on Pilotage.<sup>4</sup>

*Specific Recommendations—Pilotage District of Quebec*

- (a) *Limits of the District*. That the limits of the District be changed in such a manner as to correspond to the new situation resulting from the change of the pilotage station from Father Point to Les Escoumins; these new limits should be designated by an imaginary line drawn from the quay at Les Escoumins to the eastern extremity of Anse aux Basques (Rec. No. 2).
- (b) *Restricted Navigation Zone*. That a restricted navigation zone of embarkation and debarkation be established to encompass a radius of two (2) miles from Anse aux Basques (p. 410).

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<sup>4</sup> This recommendation is beyond the mandate of this Commission.

- (c) *Exemptions.* That no other exemption from compulsory payment of pilotage dues be granted. (Part I, Gen. Recs. 22 and 23; Part IV, Rec. No. 4).
- (d) *Berthing at Quebec.* That all vessels ascending the St. Lawrence and having to berth in the harbour of Quebec should change pilots for berthing, and the appropriate pilotage dues be charged in this regard (pp. 340 and ff.; Rec. No. 6).
- (e) *Number of Pilots.* That the number of pilots in the District of Quebec be increased by at least four (pp. 230-231).
- (f) *Limits of Tariff.* That the present limit of 15,000 net tons for computing pilotage dues be removed (p. 467 and ff.).

## (2) THE CANADIAN MERCHANT SERVICE GUILD'S BRIEF

The Canadian Merchant Service Guild was constituted as a body corporate by an Act of Parliament, assented to on June 6, 1919 (9-10 Geo. V c. 99). The main object of the new corporation was to organize all Canadian mariners into a fraternal group.

The Guild represents Masters, mates and pilots. Its total membership has remained stable for some time at approximately 2,400, equally divided between the east and west coast.

In 1958, an eastern branch was formed under the provisions of sec. 6 of the Guild's constitution. The eastern branch covers the territory from the Head of the Great Lakes to Newfoundland.

The Guild had its main office in Vancouver up until 1966 when it was transferred to Ottawa. The Guild is affiliated with the Canadian Labour Congress. Its affairs are managed by a National Executive Board made up of ten members chosen in a manner determined by by-laws.

The Guild represents the following groups of licensed pilots:

British Columbia Coast,  
New Westminster (Fraser River),  
St. John's, Nfld.,  
Sydney,  
Halifax,  
Saint John, N.B.,  
St. Lawrence River Pilots—All Districts,  
(Quebec, Montreal, Cornwall and Kingston).

In 1947, a National Pilots' Committee was formed to promote the best interests of the Canadian licensed pilots. The Committee, now known as the Committee of the National Association of Canadian Marine Pilots following the formation of that Association in 1966, is composed of two authorized



representatives from each Pilotage District and one non-voting recording Secretary designated by the National Executive Board of the Guild. Meetings are held annually. A Committee chairman and two vice-chairmen are elected at each annual meeting, representing the East Coast, the West Coast and the St. Lawrence-Great Lakes area. Although the Committee has its own rules and regulations, it operates according to the constitution and by-laws of the Guild.

The Canadian Merchant Service Guild submitted a 48-page Brief which stresses the need for basic reforms in the organization of pilotage in Canada and makes a number of recommendations.

The Canadian Labour Congress, in a letter dated October 23, 1964, to the Royal Commission on Pilotage, supported the Guild's representations to the Commission and stated that it was in full accord with the recommendations contained in the Guild's Brief. In this letter, the Congress drew particular attention to the sections of the Brief dealing with shipping casualty investigations (paras. 80-92) and strongly urged that serious consideration be given to making recommendations providing for well-defined, orderly and just procedures to protect the pilots against arbitrary discipline.

The recommendations contained in the Brief of the Canadian Merchant Service Guild are as follows:

(a) *Pilotage Act*

"It has become imperative to have a separate Pilotage Act containing the general principles regulating pilotage in all districts and defining the constitution and jurisdiction of the pilotage authority or authorities, the status, the rights, the immunities and the obligations of pilots. The Pilotage Act should limit the power of the pilotage authority or authorities to make by-laws applying the general principles therein contained to local conditions only. Such by-laws should be drafted in consultation with an advisory committee comprising representatives of the shipping industry and pilots and enacted under the authority of the Governor-General-in-Council." (Part I, Gen. Recs. 1, 2, 3, 17, 18 and 19).

"The Pilotage Act should also contain provisions guaranteeing to pilots an appeal against any action of the pilotage authority or authorities with respect to pilot's licences, the suspension or revocation of same and/or against any disciplinary action by the pilotage authority or authorities." (Part I, C.9; Gen. Recs. 30, 35 and 36).

"Lastly the proposed Pilotage Act should contain provisions clearly setting out a definite procedure for inquiries into the conduct and behaviour of pilots having due regard to our well-esta-



blished principles of justice, the law of evidence and the provisions of the Canadian Bill of Rights.” (Part I, C.9; Gen. Recs. 28, 34 and 36).

(b) *Compulsory Pilotage*

“Canada should follow the example of the major trading nations of the world in adopting the rule of Compulsory Pilotage in all pilotage districts, as it did in 1960 for the Great Lakes Basin.” (Part I, Gen. Recs. 22 and 23).

“However, in establishing Compulsory Pilotage care must be taken to remove the exemption from liability for shipowners using the services of compulsory pilots.....”

“Also, the provisions of Sub-Section (2) of Section 362 of the Canada Shipping Act limiting the liability of pilots in pecuniary damages to \$300 for any damage or loss occasioned by their negligence or want of skill should be retained.” (Part I, Gen. Rec. 11).

“Finally, the present statutory exemptions from the payment of pilotage dues should be made applicable to compulsory pilotage, unless otherwise recommended in submissions made by individual pilotage districts and corporations.” (Part I, Gen. Recs. 22 and 23).

“The National Pilots’ Committee joins with the pilots of the pilotage districts of Quebec-Les Escoumins, St. John, New Brunswick, Halifax, Sydney and St. John’s, Newfoundland, in opposing the recommendations” (made by Imperial Oil Ltd. (Brief 23)) for the establishment and uniform application of rules governing exemption from the compulsory payment of pilotage dues by Canadian ships engaged in coastwise trading either on the East or West Coast of Canada.” (Part I, Gen. Recs. 22 and 23; Part IV, Rec. No. 4).

(c) *Pilotage Dues*

“... that an effort be made to find a formula by which pilotage dues would be charged on units based on the physical dimensions of the vessel, such as overall length, breadth, depth and possibly draught, together with mileage in larger districts where the distance run is an important but variable factor. It is felt that the use of these easily ascertainable physical dimensions could be of considerable assistance in computing pilotage charges payable by any vessel, whilst taking into consideration the importance of the vessel and the degree of responsibility assumed by the pilot.” (Part I, C.6).

(d) *Pilotage by Ships' Officers* (Part I, Gen. Rec. 23)

"The Masters and Mates, members of the Eastern Branch of the Canadian Merchant Service Guild, have repeatedly in the past voiced their opposition to their being forced to pilot their vessels in addition to their normal duties as ship officers. This opposition has made the subject of many resolutions regularly adopted at meetings of The Guild by the pilots and officers concerned as well."

"The Canadian Merchant Service Guild gives its strongest support to these views of the Masters and Mates engaged in the inland and coastal trades on the Great Lakes, the St. Lawrence Seaway, St. Lawrence River and on the East Coast of Canada."

(e) *Pilot Boats*

"The National Pilots' Committee supports the recommendations of the various pilotage districts that these be supplied with suitable pilot boats. It is submitted that pilot boats cannot be standardized owing to varied conditions obtaining in each individual district."

"Any new construction should first be discussed with the pilots of the districts concerned, in order to obtain their views as to the type and size of boats required."

(f) *Detention, Cancellation and Movage Charges* (Part I, C.7; Part II, pp. 157 and ff.).

"The payment of detention, cancellation and movage charges should be standardized throughout Canada, in all fairness to pilots and users of their services as well."

"A cursory review of detention, cancellation and movage charges, applicable to all pilotage districts in Canada, is sufficient to show that these charges are quite inadequate and should be revised upwards."

"The National Pilots' Committee supports, in particular, recommendation twenty-six (26) contained in the Brief submitted by the Federation of the St. Lawrence River Pilots dealing with the removal of the exemption from detention charges because of stress of water<sup>5</sup> or ice conditions for the period between December 1st and April 8th, for the reasons outlined in the said Brief."

(g) *Pension Funds*

"The National Pilots' Committee supports the recommendations made by the various pilotage districts and corporations in

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<sup>5</sup> It is clear from the French language version of the Brief that *weather* is intended.

regard to pension funds and does not wish to elaborate further on the recommendations already made in this respect." (Part I, C. 10; Gen. Rec. 39.)

(h) *Aids to Navigation*

".....It is recommended to have the various district marine agent offices at least partially manned or staffed during weekends and on legal holidays."

"A greater co-operation and frequent consultations between those charged with the operation and maintenance of aids to navigation and pilots are highly recommended."

"It is submitted that all modifications to present systems of aids to navigation in any pilotage district should first be discussed with the pilots of the district concerned.".....

(i) *Telecommunications* (pp. 180 and ff.).

"The National Pilots' Committee supports the views expressed in the evidence adduced by the pilots of practically all pilotage districts across Canada in regard to improving the present telecommunication system and the operation of the Signal Service."

"The National Pilots' Committee also strongly recommends that all ships plying the pilotage waters of Canada should be equipped with adequate M.F. and V.H.F. radiotelephone sets."

"Finally, the National Pilots' Committee recommends that pilots be supplied with light-weight portable two-way radio sets for speedy and dependable communications between pilots rendering pilotage services on separate vessels, or between two pilots on board the same vessel when two pilots are required for difficult manoeuvres in particularly restricted waters with certain type of vessels, or between a pilot and the Master of any tug assisting in the movement of his vessel and/or between the pilots in charge of a tug and her tow."

(j) *Under Keel Clearance* (Part IV. pp. 643-45).

"The National Pilots' Committee recommends that the Pilotage Authority or Authorities, in consultation with Harbour, Seaway and Ship Channel authorities, should determine and promulgate from time to time minimum under keel clearances applicable to particularly narrow channels and restricted pilotage waters."

"These minimum under keel or bottom clearances should take into consideration the following phenomena experienced by large vessels in restricted channels:—

- (a) increased draught and decreased manoeuvrability due to wave and swell action at harbour and channel entrances;



- (b) decreased bottom clearance due to "squat" in restricted channels;
- (c) the various factors affecting a vessel's manoeuvrability in channels of restricted width and depth due to decreased rudder effect, bank suction and other factors;
- (d) wave and swell action affecting loaded vessels entering port coupled with increased draught resulting from rolling action of beamy vessels."

"It is of the utmost importance that any regulations relating to minimum under keel clearances be widely promulgated so that masters, owners and agents of vessels entering waters where such minimum under keel clearances are applicable be well informed of their existence and may be made aware of the risk to the safety of vessels not complying with same."

- (k) *Disciplinary Measures and Shipping Casualties* (Part I, C.9; Gen. Recs. 26-37)

"This arbitrary and illegal manner of conducting inquiries and investigations" (into the conduct, behaviour and administration of pilots and into accidents or casualties involving them) "has led to severe criticism of the system and to complete disrespect for those charged with the application of the provisions of the Act dealing with pilotage matters and of the By-laws made thereunder."

"It seems obvious that drastic changes are required in the handling of discipline cases and accidents or casualties involving pilots. First of all, all such cases should be investigated by specially trained Investigating Officers not connected with the operation of pilotage. Their investigations should be carried out under well-defined regulations confirmed by the Governor-in-Council. These regulations should provide for a complete procedure of investigation jealously safeguarding the rights of the individual involved. The conduct of such investigation should be governed by our well-established principles of justice, the law on evidence and the provisions of the Canadian Bill of Rights. In no circumstances should any individual be forced to incriminate himself."

"On receipt of the report of such investigation the Minister should have the alternative of ordering either the case dropped or a Formal Investigation held under provisions comparable to those presently contained in Sections 558 to 578 of the Canada Shipping Act inclusive and the rules of procedure made pursuant thereto. In no circumstances should the conduct of such Formal Investigation be entrusted to Commissioners with no legal background. It is of paramount importance that provisions similar to those presently



contained in Section 576 dealing with re-hearing of investigation and the appeal to the Admiralty Court be preserved together with those of Section 142, whilst the provisions of Section 579 should cease to apply to pilots' licences. However, in minor cases involving the imposition of fines only, the Minister of Transport could impose a penalty without ordering a Formal Investigation."

### (3) CAPTAIN MAURICE KOENIG'S BRIEF

Captain Maurice Koenig, a licensed pilot in the Quebec District since 1951 and a member of both the "Association des Pilotes licenciés pour le Havre de Québec et en aval", of which he was a director in 1955, and the Corporation of the Lower St. Lawrence Pilots, submitted a private brief (Ex. 571) in which he voiced his disapproval of the present administration of the Quebec pilots' affairs by the said Corporation. He testified in support of his brief when the Commission held its public hearings in Quebec City and subsequently filed written pleadings (Ex. 1352) when the Commission held its final hearings in Ottawa.

In his brief, which relates solely to the Quebec Pilotage District, Captain Koenig made the following recommendations:

- (a) The Department of Transport should continue to be recognized as the pilotage authority (Part I, Gen. Recs. 15, 16 and 18).
- (b) The relocation at Les Escoumins of the pilotage station which used to be at Father Point should be reconsidered (pp. 403 and ff.).
- (c) The existing rules concerning the election of the Board of Directors of the Corporation should be revised to ensure that at least half the Board is always composed of older and more experienced pilots (Part I, Gen. Rec. 25; Part IV, pp. 277-278).
- (d) Either the individual contributions to the pilots' Pension Fund should be reduced or the pilots' pension benefits should be increased (Part I, C. 10; Gen. Rec. 39).

### (4) CAPTAIN LUCIEN BÉDARD'S BRIEF

Captain Lucien Bédard has been a licensed pilot in the District since 1938. He is a member of the "Association des Pilotes licenciés pour le Havre de Québec et en aval", but, among others, refused to join the Corporation of the Lower St. Lawrence Pilots. He filed a private brief (Ex. 1323), but did not bring any evidence to support his representations.

In his brief, which also relates solely to the Quebec District, Captain Bédard made the following recommendations:

- (a) In the interest of pilotage in general and of the pilots in particular, the Department of Transport should remain the controlling agent of the administration of pilotage on the St. Lawrence (Part I, Gen. Recs. 15, 16 and 18).
- (b) The said Department should continue to collect from each pilot a ten per cent (10%) contribution for Pension Fund purposes (Part I, C.10; Gen. Rec. 39).
- (c) The pilots should be required to continue their support of the "Association des Pilotes licenciés pour le Havre de Québec et en aval" and pay to it whatever contribution may be determined from time to time at general meetings (Part I, Gen. Rec. 25).
- (d) The present system of pooling of earnings should be abandoned, each pilot receiving directly from his employer the remuneration to which he is entitled by law and regulations (Part I, pp. 77 and ff. and 192 and ff.; Gen. Rec. 24).

(5) BRIEF BY TWENTY-ONE PILOTS OF THE QUEBEC DISTRICT

Twenty-one pilots of the Quebec District, including Captain Maurice Koenig and Captain Lucien Bédard, submitted to the Commission, in the form of a petition, a brief (Ex. 1322) which every one of the twenty-one pilots signed.<sup>6</sup>

After indicating their objection to the present "pooling" system, these pilots recommended that:

- (a) The system under which pilots are required to pool their earnings should be abolished, each pilot receiving directly the dues to which he is entitled by law (Part I, pp. 77 and ff. and 192 and ff.; Gen. Rec. 24).
- (b) The "Association des Pilotes licenciés pour le Havre de Québec et en aval" should be maintained and the newly formed Corporation of the Lower St. Lawrence Pilots be prevented from usurping the rights of the Association (Part I, Gen. Rec. 25).
- (c) The administrative expenses of the Association should be met through a fixed, reasonable, individual contribution (Part I, Gen. Rec. 25).
- (d) The pilots should be entitled to provide financial assistance in bona fide cases of illness and suspension (Part I, Gen. Rec. 39).
- (e) The pilots' Pension Fund should be properly supervised by the Pilotage Authority (Part I, Gen. Rec. 39).

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<sup>6</sup> Subsequently, five pilots withdrew their signatures on the ground that they had misunderstood what they had been called upon to sign.

- (f) The administration of pilotage in the Quebec District should be entrusted to a local authority or commission composed of three persons including a Judge of the Superior Court of Quebec (Part I, Gen. Rec. 18).

#### (6) SHIPPING FEDERATION OF CANADA'S BRIEF

The Shipping Federation of Canada Inc. was incorporated in 1903 by an Act of the Federal Parliament (3 Edward VII c.190 (Ex. 903)) as an association of persons having a common interest in the shipping trade of Canada. Its head office is in Montreal.

The main objects of the Federation, as set out in its documents of incorporation, are, in part:

- “(a) to amalgamate and federate, as members thereof, shipowners and shipping agents and such other persons, firms and corporations, as are from time to time interested in the shipping trade of Canada.
- (b) to consider all questions affecting the interests of the shipping trade of Canada or other trades connected therewith and the interests of the members of the Federation, and to take such action as the Federation deems advisable to develop and protect the said trades and interests.”

In addition to the operators of certain Canadian coasting services, the Federation represents at present nearly all the owners and operators of ocean-going vessels trading from overseas to eastern Canadian ports, St. Lawrence River ports and Canadian and United States ports on the Great Lakes which carry most of Canada's foreign trade that moves by sea. The membership of the Federation does not vary greatly from year to year. In 1962, there were forty-nine members representing one hundred and eighteen shipping companies operating liner services; in 1963 and 1964, there were forty-seven members representing one hundred and twenty-two such companies.

The members of the Federation, although representing mainly foreign flag ships owned either by foreign nationals or Canadian interests operating their vessels under the British flag, are essentially Canadian companies managed by individual Canadians who either operate the ships themselves under contracts of affreightment, or act as agents for the foreign carriers. It is the concern of these Canadian operators or agents, members of the Shipping Federation of Canada, to establish operating conditions within Canada for all shipping, not for the benefit of “foreign” interests *versus* “Canadian” interests, but for the benefit of Canada's foreign trade by means of efficient and competitive ocean shipping services. Ocean shipping is, by its very nature,



international in scope, composition and practice and Canada's export and import trade moving overseas could not hope to live without the services of these "foreign" ships.

The Shipping Federation is affiliated with the International Chamber of Shipping, London, and works closely with the Chamber of Shipping of the United Kingdom, the Baltic and International Maritime Conference of Copenhagen, the Liverpool Steamship Owners Association and the Norwegian Shipowners Association. These associations, including the Shipping Federation, pursue similar objectives, i.e., to formulate and present the views of the shipping industry as a whole on all questions of major policy. They have nothing to do with the fixing of freight rates and none belongs to any rate-fixing Conference.

An annual meeting of the members of the Shipping Federation of Canada takes place in March of every year at which time an Executive Council consisting of eleven representatives is elected by the members of the Federation. The business of the Federation is managed by this Executive Council with the assistance of various committees, particularly the Pilotage Committee, the Labour Relations Committee, the Pilferage Committee and local Steamship Committees at Toronto, Quebec, Halifax and Saint John, which deal with shipping problems at these ports.

The main functions of the Shipping Federation are in connection with pilotage, aids to navigation, improvement of harbours, port use, towage tariffs, deepening of channels, agreements with labour organizations, and negotiations with all branches of government on any matters affecting the interests of shipowners in connection with charges and facilities in Canadian harbours.

In connection with pilotage, the members of the Shipping Federation are the main users of the services of pilots and are thus interested in ensuring that competent, reliable pilots are always available at reasonable cost for the safe and efficient movement of traffic. Their interest in pilotage matters has been looked after since 1955 by a Pilotage Committee composed of nine members which meets several times a year to discuss various aspects of pilotage administration and operations such as pilotage dues, income levels of pilots, workload and general working conditions of pilots. On these and other related subjects, the Committee makes its recommendations to the Executive Council or to an annual general meeting.

In June 1963, the Shipping Federation submitted to the Royal Commission a Brief in two volumes on the problems of pilotage on the St. Lawrence River between Les Escoumins and Kingston, leaving aside the stretch of the River between Cornwall and Kingston from the time that it became part of the Great Lakes pilotage system, as District No. 1, at the beginning of the



1961 navigation season.<sup>7</sup> In it the Shipping Federation makes several recommendations of which all except one<sup>8</sup> are of a general nature and deal with the organizational structure of pilotage, the extent and nature of pilotage requirements, and the duties, responsibilities and status of pilots. These recommendations are as follows:

- (a) The creation of a permanent Board of Pilotage Commissioners as a non-political agency having, under its enabling Act, jurisdiction over the administration of pilotage in the whole of Canada. This Board should be established either as an Agency Corporation (like the National Harbours Board) or as a Proprietary Corporation (like the Canadian Broadcasting Corporation) accountable through the Minister of Transport to Parliament for the conduct of its affairs. The Board should consist of a chairman with shipping and business experience and two other members, one of whom should be a lawyer and the other a chartered accountant. It should have the assistance of an Advisory Committee made up of representatives from each of the following Government authorities: Department of Trade and Commerce, St. Lawrence Seaway Authority, National Harbours Board, Department of Transport and Treasury Board (Part I, Gen. Rec. 16). With regard to the powers of the Board, the following were suggested (Part I, Gen. Recs. 17, 19, 20, 21, 22 and 23):
  - (i) establishing new Pilotage Districts or abolishing existing ones;
  - (ii) making such rearrangements of Pilotage Districts as the Board may think necessary or expedient, including<sup>9</sup> payment of compensation to any pilot for loss or damage incurred by him in consequence of any order abolishing or rearranging Pilotage Districts, or assigning surplus pilots from one District to another which may be short of pilots;
  - (iii) defining the limits of each Pilotage District and appointing the local Pilotage Committee to administer such District;
  - (iv) determining whether the payment of pilotage dues shall be compulsory in any District or in any part thereof and for what class of ships;
  - (v) granting pilotage exemptions in any District and determining the conditions of such exemptions;
  - (vi) authorizing the Pilotage Committee in each District to make by-laws and approving such by-laws;

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<sup>7</sup> The Shipping Federation subsequently filed a supplementary Brief on the problems affecting pilotage in the Great Lakes, which forms the subject of Part V of this Report.

<sup>8</sup> This recommendation pertains to the establishment of a separate Pilotage District for the harbour of Montreal; see Montreal Pilotage District.

<sup>9</sup> Added subsequently-*vide* Transcript Vol. 158, p. 21057.

- (vii) determining the minimum and maximum yearly earnings of pilots in each District in relation to their workload and determining the accounting procedure to be followed to take care of deficiencies or surplus in the pilotage revenues of the District;
  - (viii) determining what part of the cost of the services in each District shall be borne by the users of the service and what part shall be paid by the Government as a public service to shipping;
  - (ix) settling disputes on the interpretation of by-laws between a local Pilotage Committee and the pilots of the District or the users of their services;
  - (x) prescribing what type of control, if any, should be exercised over pilotage in any of the smaller ports where pilots offer their services on a purely private basis, and conducting investigations into the competency of such pilots and the nature of the services rendered;
  - (xi) convening and holding public hearings on all matters of interest to the shipping industry and the pilots in relation to pilotage problems in general or pilotage problems arising in a given District;
  - (xii) approving and supervising the operation of the pooling agreements of the pilots in each Pilotage District;
  - (xiii) causing an annual audit to be made of the books of the Pilots' Corporations in each District, examining their constitution as well as their proceedings, protecting the interests of individual members of such Corporations and hearing their complaints against the Corporations, ordering the cessation of discriminatory practices against minority members, and generally ensuring that in all actions taken by the Corporations against their members the fundamental requirements of due process of law are complied with;
  - (xiv) controlling or supervising the administration of the pension funds in each District; and
  - (xv) ordering and supervising the preparation of statistical returns covering all phases of the pilotage system operating in each of the Pilotage Districts or harbours coming under the jurisdiction of the Board.
- (b) The creation of a local Pilotage Committee in each Pilotage District established by the National Pilotage Board, having the autonomous administration of the pilotage services in the District and charged with the full and complete enforcement of the local by-laws.

Specifically, each Committee should consist of three persons: the local Superintendent of Pilots as chairman, assisted by two advisory members, one of whom might be a representative of the local harbour authority and the other the District Marine Agent or a representative of the Department of Transport (Part I, Gen. Rec. 18).

In regard to the powers of the local Pilotage Committees, it is envisaged that they should be primarily administrative in nature, particularly as regards the enforcement of the by-laws governing their respective Districts. The primary responsibility for the preparation of these by-laws should rest with each Committee, but the by-laws would need to be approved by the Board of Pilotage Commissioners to become effective. Amongst the subject matters to be covered by such by-laws, the following are suggested:

- (i) the qualifications of pilots;
- (ii) the terms and conditions of pilots' licences;
- (iii) the selection of apprentice pilots and the formulation of programmes of apprenticeship;
- (iv) the government of pilots;
- (v) the disciplinary measures to be taken against pilots for any breach of the regulations governing their conduct;
- (vi) the pilotage rates and tariffs necessary to provide the required revenues to meet the costs of the pilotage service to the extent that they have to be met by the users, including the remuneration of pilots computed on the basis of the minimum and maximum yearly earnings set by the Board of Pilotage Commissioners;
- (vii) the rules governing the retirement of pilots;
- (viii) the adjustment of disputes between pilots and users of their services; and
- (ix) the establishment of pension funds for pilots and the administration thereof.

It is further intended that each local Committee should be empowered to appoint such staff as it may deem necessary to discharge its managerial functions effectively.

- (c) The development of a formula designed to provide a pre-set annual remuneration for pilots with, perhaps, certain limits and geared to a fair workload (Part I, C.6; Gen. Recs. 21 and 24).
- (d) The adoption of a system under which pilotage rates or tariffs shall be negotiated between the shipping industry and the local Pilotage Committee in each District with a view to providing sufficient



revenues to meet the payment of a pre-set remuneration of the pilots, subject to confirmation by the Board of Pilotage Commissioners as expressed in the enactment of the by-laws of each District (Part I, C.7; Gen. Recs. 19, 20 and 21).

- (e) Recognition of the right of the shipping industry to participate in the selection of applicants for pilotage apprenticeship or of probationary pilots, and the formulation of the conditions of apprenticeship (Part I, p. 515; Part IV, p. 234).
- (f) The convening of periodical or special meetings at the level of the local Pilotage Committee between representatives of the pilots and the shipping industry for the purpose of submitting joint recommendations to the Authority for warranted changes or improvements in aids to navigation in each Pilotage District (Part I, Gen. Recs. 18 and 19).
- (g) The outlawing of individual or collective strike action by the pilots in any or all Districts and the setting of penalties by law against striking pilots (Part I, Gen. Rec. 38).
- (h) The acceptance of the principle of collective responsibility on the part of pilots for collective action taken by them or through their Corporations, and the Corporations to be made liable for such collective action (Part I, p. 430 and ff.; Gen. Rec. 38).
- (i) The enactment of disciplinary rules making it unlawful for pilots individually or collectively through their corporate organizations to threaten, entice or otherwise influence a pilot in any District in order to have him refuse work and, conversely, to threaten, or otherwise influence or entice the Master of any ship to have him refrain from proceeding through a Pilotage District without a pilot on board.
- (j) The enactment of rules permitting the Pilotage Authority to take steps to ensure that in all actions taken by the Corporations affecting their members the fundamental requirements of due process of law are complied with, the interests of minority members are fully protected and pilots in any District remain free to join or not join the Corporation in their District (Part I, Gen. Recs. 18 and 25).
- (k) The enactment of rules whereby a pilot involved in a serious casualty or suspected of serious negligence or dereliction will automatically be suspended pending an immediate, full investigation into the circumstances of the case, at which the operators of the ship will be permitted to attend, and which will include a full medical and/or psychiatric examination if the state of health, physical or mental, of the pilot appears to have been a factor, or drinking or drug addiction is suspected (Part I, Gen. Rec. 29).



In regard to investigation of marine casualties, it is envisaged that the exercise of the judicial or quasi-judicial powers in connection with the investigation of those casualties in which pilots are involved should be completely divorced from the functions of either the local Committees or the Board of Pilotage Commissioners for Canada, and that such judicial functions should be vested in a Court constituted under the same principles as those under which the former Wreck Commissioner's Court used to operate, the reports of the Court always being made available to the Board. This would not mean that the local Committees or the Board itself would not have the power to take disciplinary measures against pilots found guilty of infractions against the rules of discipline as set out in the By-law of their District whenever such infractions did not result in a shipping casualty (Part I, Gen. Recs. 28, 30, 35 and 36).

- (1) A computation of the accident record of each pilot with a yearly review submitted to the representatives of the shipping industry with a view to having steps taken to investigate the physical fitness, character and background of accident-prone pilots.

#### (7) DOMINION MARINE ASSOCIATION'S BRIEF

The Dominion Marine Association was originally established in 1904 as a voluntary association of Canadian lake carriers. It was re-organized a number of times and operated under various names until 1961 when it was incorporated under Part II of the Canadian Companies Act as a non-profit organization to represent Canadian companies owning and operating ships on the Great Lakes and the St. Lawrence River and in the Gulf of St. Lawrence.

The objects of the Association, as stated in its documents of incorporation, are:

- (a) to promote in Canada the operation of ships built and registered in Canada;
- (b) to do and perform all things or acts to protect and advance the common interests of Canadian shipowners.

The membership of the Association consists of 21 companies which, during 1964, operated on the Great Lakes and the St. Lawrence some 155 ships with a total gross tonnage of 911,544 tons, representing over 80 per cent of the Canadian Great Lakes fleet.<sup>10</sup>

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<sup>10</sup> Among notable exceptions are Papachristidis Co. Ltd., Imperial Oil Limited and Branch Lines Ltd. In 1964, these three companies operated some 20 ships with a total gross tonnage of 120,772 tons. However, they filed letters with the Commission indicating their support for the Association's Brief—Exs. 1137 and 1283.

For many years the Dominion Marine Association has played an important rôle in the development of shipping on the Great Lakes and St. Lawrence River. Among other things, the Association encouraged the use of radiotelephony on the Great Lakes, a system which now forms the basis of an agreement between Canada and the United States wherein all vessels must have radiotelephone equipment while on the Lakes. It advocated and secured the establishment of separate lanes for upbound and downbound vessels. The Association has also been active in securing improvements to the channels and aids to navigation on the St. Lawrence. In these endeavours, the Association acts in close concert with a similar association of owners in the United States: the American Lake Carriers Association. Each Association maintains a standing Navigation Committee to review safety standards and assist governmental agencies and others to bring about the necessary improvements.

While the work of the American Committee is limited to the Great Lakes, the work of the Canadian Committee ranges all the way from the Lakehead to the Maritimes. Each winter, the Navigation Committee of the Dominion Marine Association holds meetings to draw upon the experience of the past navigation season and makes to the Canadian Government such recommendations as may be deemed necessary or desirable. These annual meetings are attended by representatives of all the departments and agencies concerned and liaison is maintained with the corresponding Committee of the American Lake Carriers Association.

The Dominion Marine Association has also been interested in matters of pilotage for a good many years, but more particularly since the opening of the St. Lawrence Seaway. Until 1959, the small canal-sized ships, which had a maximum net tonnage of between 1,500 and 2,000 tons, were used primarily on the St. Lawrence River below Montreal and in the Gulf of St. Lawrence with only occasional voyages to the Upper Lakes. Since the officers of these vessels were familiar with pilotage in these areas, their vessels were specifically exempt by local pilotage by-laws from the compulsory payment of pilotage dues when navigating through the Pilotage Districts of Montreal and Quebec. With the opening of the Seaway in 1959, the large lakings which had hitherto been confined to the Upper Lakes were able to extend their voyages as far east as Seven Islands. This, concurrently with the gradual replacement of the smaller canal-size ships, brought about a complete change in the pattern of trade and in the pattern of operations of the Canadian lake shipping companies. In due course, the Dominion Marine Association requested the Federal Government to exempt these large lake vessels from the compulsory payment of pilotage dues in the Districts of Montreal and Quebec on the ground that the Masters of these vessels did not really require pilots.

Since no action was taken on its request, the Association brought the matter up before this Commission and submitted a 30-page Brief in which it made the following *general recommendations*:

- (a) exemption from pilotage and compulsory payment of pilotage dues to domestic ships engaged in trade of a local nature on the St. Lawrence River without regard to tonnage restriction (Part I, Gen. Recs. 22 and 23);
- (b) a universal system of measurement as a basis for calculation of pilotage tariff (Part I, C. 6);
- (c) administration of the pilotage service by a national board or commission (Part I, Gen. Recs. 15-19).

#### (8) CANADIAN SHIPOWNERS ASSOCIATION'S BRIEF

The Canadian Shipowners Association, incorporated in 1953 under Part II of the Federal Companies Act, is a national association of ocean shipping operators.

One of the main objectives of this Association has been to promote Canadian deep-sea shipowning, but the gradual decline experienced since 1946 in the ownership and operation of Canadian registered ocean-going ships continued despite the efforts of the Association and reached such a point that by 1965 Canadian ocean shipping companies had to rely almost exclusively (and still do) on chartering foreign vessels to carry their goods.

This transition from owners to charterers brought about the formation in December 1967 of a more widely based national organization to represent Canadian shipping interests, namely the Canadian Chamber of Shipping. Among the constituent members of this new organization are: Canadian Shipowners Association, Shipping Federation of Canada, Chamber of Shipping of British Columbia, British Columbia Towboat Owners Association, and British Columbia Maritime Employers Association.

The Canadian Chamber of Shipping has now taken over most of the services and functions of the Canadian Shipowners Association, including the liaison activities with the several departments and agencies of the Federal Government concerned with waterborne transport.

In 1964, the Canadian Shipowners Association submitted to the Royal Commission a Brief in which it expressed the view that the administration of pilotage should be removed from the present method of political control and reorganized under a separate, independent and, for the most part, autonomous authority. Specifically, the Association recommended:

- (a) The repeal of Part VI and other pertinent sections of the Canada Shipping Act and their replacement by statutory powers directing the Governor in Council to establish a National Pilotage Commis-



sion vested with authority to control and administer all pilotage in Canada directly or by delegation as may be desirable in order to provide economically and efficiently, and regulate, the pilotage services required as an aid to navigation in the territorial or domestic waters of Canada (Part I, Gen. Recs. 1 and 14-19).

(b) That the proposed National Pilotage Commission be given responsibility for all aspects of the provision of pilotage services, including, but not restricted to, on the one hand:

- (i) employment of pilots under terms and conditions negotiated from time to time with the Pilots' Associations (Part I, Gen. Recs. 24 and 25);
- (ii) establishment and enforcement of standards of competency and discipline, and regulation of the issuance of licences to qualified personnel (Part I, Gen. Recs. 13, 18 and 19);
- (iii) organization and operation of efficient training and apprenticeship procedures (Part I, Gen. Recs. 13 and 31);
- (iv) determination and establishment of appropriate Districts and pilotage offices and provision for the operation of suitable pilot vessels (Part I, Gen. Rec. 17);
- (v) organization of suitable pension schemes designed to meet the particular needs of the service (Part I, Gen. Rec. 39); and on the other hand, in consultation with the users (the ship-operating interests):
- (vi) determination of the most efficient type and kind of pilotage services required (Part I, Gen. Recs. 17, 18 and 19);
- (vii) negotiation of a realistic method for assessing and paying fees, with due regard for the value of the services rendered, the need or otherwise for compulsory pilotage or compulsory payment of pilotage dues, and the impact of such costs on the Canadian economy (Part I, C.6).

(c) That, as in the past, the monetary contribution by the Federal Government towards the administration and operation of pilotage be continued by annual appropriations to the Commission. It is in the national interest to maintain services of the highest order, a portion of the cost of which may be quite appropriately shared by the public treasury, as is done for other aids to navigation, which pilotage essentially is (Part I, Gen. Rec. 21).

(d) That the Commission be composed of three persons. One should reside on the Pacific Coast, with responsibility for pilotage services in British Columbia coastal waters. Another should be a professional sailor with the highest available qualifications. The third



member, the chairman and chief executive officer, should be a person with demonstrated administrative ability and legal knowledge and with a comprehensive understanding of the mechanics and the importance to Canada of its external and domestic waterborne trade (Part I, Gen. Rec. 16).

- (e) That the authority of the Commission be complete and final without an appeal to the political authorities on its day-to-day administrative judgments and decisions (Part I, Gen. Rec. 19).
- (f) That the Commission be a Schedule D (Proprietary) Corporation, as defined in Part VIII of the Financial Administration Act, responsible to the appropriate Minister of the Crown, reporting annually to Parliament, its accounts reviewed by the Auditor General. The proportion of its annual budget which the Commission considers should be borne from public funds should be voted annually by Parliament in the same manner as that of other Schedule D public service bodies (Part I, Gen. Recs. 16 and 20).
- (g) That the Commission be completely autonomous, subject only to an annual review by Parliament at which time objections to its methods or policies could be registered by either the users of the services (the ship operating interests) or the providers (the pilots) (Part I, Gen. Recs. 16 and 20).

In connection with the employment of pilots and the local administration of pilotage, the Canadian Shipowners Association made the following observations:

- (a) The essentiality of pilotage services or the professional status of the pilots themselves is not in question. In the national interest, the Government employs, whether directly in the civil service or by its various commissions, almost every type of professional person (e.g., lawyers, doctors, engineers, dentists). There seems no valid reason why pilots should not also be able to find satisfactory employment conditions in the service of a commission organized along the lines indicated, in which incentives for professional responsibilities and workload are given proper recognition. Employment under a Schedule D commission can be of a specialized nature and, in common with other similar organizations, need not be subject to the rigid regulations covering normal civil service employment. Having regard to the rapid developments in the field of electronic navigation and automated methods of controlling the movement of ships, it is felt that the pilots themselves would find more realistic and acceptable employment conditions in this form of organization than as private professional entrepreneurs (Part I, Gen. Rec. 24; Part III, p. 210).

- (b) By following the method envisaged in this recommendation, the commission, if it saw fit, could set up local committees to advise the commission or its Regional Superintendents. Pilots' Associations or ship management organizations would both have access to the commission proper and to its Regional Superintendents. The latter might well be given a good deal of authority to deal with local administrative matters, including payment of salaries and expenses, operation of tour de rôle schedules, billing and collection of fees (Part I, p. 506; Gen. Rec. 18).

Finally, the Canadian Shipowners Association made certain recommendations with respect to pilotage on the Great Lakes, which will be reported upon in Part V of the Commission's Report.

#### (9) IMPERIAL OIL LTD. BRIEF

Imperial Oil Ltd. is a large company with head office in Toronto, dealing in petroleum products. It has a marine division which operates a fleet of tankers (Canadian Registry) on the Great Lakes and St. Lawrence River, as well as in the East and West Coast trade.

The company submitted a Brief in connection with the existing rules governing the compulsory payment of pilotage dues, particularly as these rules are applied in the Pilotage District of Quebec and in the Pilotage Districts on the East Coast; the Brief concludes by recommending the establishment and uniform application of the following rules, more specifically:

- (a) Canadian registered ships engaged in coastwise trade and manned by Masters and officers whose service has provided them with the necessary local knowledge be licensed or authorized to pilot their own ships in and out of the ports for which they have been licensed or authorized without payment of pilotage dues (Part I, Gen. Recs. 22 and 23).
- (b) All foreign-going shipping, regardless of flag, be required to take pilots and pay pilotage dues for such service (Part I, Gen. Rec. 21).
- (c) Canadian ships engaged in coastwise trading, if exempt from pilotage, be required to establish radio contact with the pilotage signal service when entering and leaving port so that parties may have knowledge of the movement of ship traffic (pp. 238 and ff.).

#### (10) CLARKE STEAMSHIP COMPANY LIMITED BRIEF

Clarke Steamship Company Limited is a shipowner operating a certain number of passenger-dry cargo vessels (Canadian Registry) on the St. Lawrence and East Coast of Canada.

The company submitted a Brief with recommendations concerning the compulsory payment of pilotage dues in those areas served by it, but did not bring any evidence in support of its representations. These recommendations are as follows:

(a) *Pilotage District of Quebec*

- (i) The existing 2,000-NRT limitation set by the local pilotage By-law on Canadian and other British coasting vessels for exemption from compulsory payment of pilotage dues should be increased to 4,000 net tons (Part IV, p. 211).
- (ii) If a separate system of port pilotage is established for the harbour of Quebec, Canadian registered ships should be exempt from any compulsory harbour pilotage or any compulsory payment of pilotage dues in the harbour that may be provided under such arrangements (Part I, p. 227; Gen. Recs. 22 and 23).

(b) *Pilotage Districts in the Maritime Provinces*

- (i) Canadian registered ships should be exempt from compulsory payment of pilotage dues when not employing pilots in any of the Pilotage Districts of the Maritime Provinces where payment of pilotage dues is made compulsory (Part I, Gen. Recs. 22 and 23; Part III, specific recommendations re the classification of each District).

(11) INSTITUT DE MARINE DE LA PROVINCE DE QUÉBEC BRIEF

Founded in 1944 through the co-operation of the Provincial Government and the Federal Government, the Province of Quebec Marine Institute began its operations as a department of the Rimouski Technical School. It gradually expanded with the years to become a unit in the specialized schools system of the Department of Education of the Province of Quebec.

The purpose of the Marine Institute is to give young men who wish to take up a sea-going career the means to achieve their ambition by improving their standing in science and general knowledge before they sign up as apprentices with the shipping companies. Courses are given in navigation, marine engineering and radio-telecommunications. The Institute also provides refresher courses for seamen who, after completing their time at sea, wish to pass the examinations necessary to obtain their certificates (pp. 235 and ff.).

While the Marine Institute is not a school for pilots, its training course of academic and specialized studies has assisted the Pilotage Districts of Quebec and Montreal by providing a number of mariners with a better technical knowledge of their profession. In the light of this experience, the



Marine Institute submitted a Brief dealing with apprenticeship in which it made the following *general recommendations* (Part I, Gen. Recs. 13 and 31):

- (a) All Pilotage Districts on the St. Lawrence River should adopt an apprenticeship system which would enable them to take advantage of the facilities offered by the Marine Institute of the Province of Quebec.
- (b) In selecting pilots from the lists of persons eligible for admission to the pilotage service, preference should be given to Masters or mates in accordance with the grade of the Certificate of Competency each one holds.
- (c) Candidates holding a Certificate of Competency First Mate Foreign-going or Master Home-trade should be exempt from those courses which deal with subjects other than local knowledge. Subjects such as navigation, stability of vessels, shipbuilding, etc., are part of the knowledge required of a First Mate Foreign-going and a Master Home-trade. The course dealing with local knowledge might well be given during the summer season.
- (d) The period of training at sea required of an applicant for admission to the pilotage service in order to obtain a Certificate of Competency as Master or mate is far too long. This period should be reduced by half in favour of training courses in well-organized, specialist schools. In addition, the requirement for experience or training at sea that an apprentice pilot must have should be limited to inland or home-trade voyages, it being understood that this would not involve sailing more than 100 miles beyond the limits of the territorial waters of Canada.
- (e) A Canadian deep-sea merchant marine should be established and developed.

#### (12) THE LOWER ST. LAWRENCE AND GULF DEVELOPMENT ASSOCIATION'S BRIEF

The Lower St. Lawrence and Gulf Development Association was founded in 1957 by the principal industries located on the north shore of the St. Lawrence River to advance the economic and industrial development of the area. The Association, which has its head office in Montreal, comprises some 70 to 75 members including industries, associations and individuals interested in promoting the economic, social and cultural welfare of the Lower St. Lawrence and Gulf region.

The Association submitted a brief dealing with the development of traffic and of the navigational conditions at the principal Lower St. Lawrence north shore ports, namely, Baie Comeau, Port Cartier, Sept-Îles and Havre



St-Pierre. A number of industries located at these ports<sup>11</sup> prepared individual submissions to show that the existing conditions in their respective ports do not warrant the establishment of pilotage as a regulated undertaking, claiming that the private pilotage service currently being given by them there is adequate for the safe and efficient movement of vessels.

The Association, after stating its agreement with the views expressed by these member-industries, *recommended* in its brief that:

No Pilotage District or Districts should be established in the Lower St. Lawrence north shore region generally, nor at the ports of Baie Comeau, Port Cartier, Sept-Îles, or Havre St-Pierre in particular (Part I, Gen. Recs. 7, 8 and 10; Part IV, Rec. No. 5).

### (13) COMPUTING DEVICES OF CANADA LTD. BRIEF

Computing Devices of Canada Ltd. was founded in 1948 by a group of scientists interested in the design and development of electronic equipment for the Canadian market. Current marine programmes actively engaged in by the company include anti-submarine warfare, exploration for gas and oil, fisheries research and navigational aids.

Its Brief reported current accomplishments and developments in fields connected with marine pilotage and navigation and showed how electronic technology could be applied to develop and install an integrated marine traffic information system for use in any pilotage waters: long waterway, extensive system of lakes, connecting canals and rivers, port or harbour.

To facilitate the comprehension of its proposal, the company outlined in its Brief how such a system could be developed on the St. Lawrence River between Les Escoumins and Montreal, utilizing current facilities supplemented by new electronic aids including microwave beacons, computers and V.H.F. radiotelephones for three-way communications, i.e., ship-to-ship, ship-to-shore and shore-to-ship. The system proposed would have the following principal features:

- (a) An independent Authority which would coordinate the interests of all Government departments having jurisdiction over ships navigating the River and would operate a Waterway Traffic Information Centre to provide ships with current information pertaining to navigational dangers, weather conditions, traffic on the River and other information of use when manoeuvring or berthing.

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<sup>11</sup> Cargill Grain Company Limited, Canadian British Aluminum Company Limited and Quebec North Shore Paper Company (Baie Comeau); Quebec Cartier Mining Company (Port Cartier); Iron Ore Company of Canada (Sept-Îles); and Quebec Iron and Titanium Corporation (Havre St-Pierre).

- (b) A Waterway Traffic Information Centre equipped with computer, operational plot and modern data recording facilities, and linked to all ships and authorities on the River through an extensive communications system using V.H.F., H.F., RT and landlines.

The Centre would be in constant touch with all ships using the waterway between Montreal and Les Escoumins and with Harbour Masters, pilot stations, Department of Transport and other authorities controlling river and harbour works, the meteorological forecast office, Customs and Immigration. Information on water levels, direction and strength of current, direction and force of winds, temperature, visibility, failures or displacement of navigational aids and other similar data would be reported by ships or local observers via V.H.F./RT to the Centre for dissemination to ships and shipping interests generally as and when required. A specially designed and constructed operational plot would show the position and progress of all ships on the River, such information to be supplemented by the use of a computer to provide time of arrival of vessels, time and position of vessels passing or overtaking as well as the optimum desirable pattern of ship movements anywhere at any time on the waterway in the light of prevailing conditions. Finally, a modern data recording system would be employed to collect and analyse all information pertaining to the ships using the waterway.

- (c) Microwave beacons in particularly confined areas of the River, mounted on range light towers, for use with associated shipborne receivers, to enable ships in conditions of poor visibility to maintain a pre-determined course in exactly the same manner as when using leading lights or range lights.

Computing Devices of Canada, while concluding in its Brief that the suggestions made were valid and thoroughly practical, did not make specific recommendations as to the manner in which these suggestions should be implemented, explaining that before this could be done, a careful study of all relevant factors would need to be carried out at the actual location.

A system along the lines of the proposal has since been established from Sept-Îles to Montreal (pp. 180 and ff.).



## Chapter C

# EVIDENCE

### PREAMBLE

Semantics have been the most important single cause of misunderstanding between all parties concerned with pilotage in the District of Quebec. For historical reasons, Quebec has inherited a highly complicated administrative procedure which is totally different from that followed in the Districts previously studied in Part II and Part III of the Report. A great deal of confusion is created because certain terms have an altogether different connotation in the Quebec District, and also because the same term is used with different meanings in the District depending on the point of view. Hence, in order to facilitate comprehension of the Quebec system it is considered necessary to define the key terms whose meaning differs in the Quebec District and, for the purpose of this Report, to give a special name for each of the different meanings of the same term.

#### *Trips and Turns*

While in other Districts the term *trip* generally means a pilotage voyage as distinct from other types of pilotage assignments, e.g., movages, and the term *turn* refers only to a pilot's place on the tour de rôle, these terms have acquired a number of different meanings in the Quebec District due to the complex system of despatching based on the equalization principle, and the incomplete pooling unofficially operated by the pilots.

(1) *Trip* has the following meanings:

- (a) As a general term, it is synonymous with *pilotage voyage* irrespective of its length (hence, excludes movages) Part I, p. 135. For instance, Les Escoumins to Rivière du Loup, some 30 miles, and Québec to Chicoutimi, some 165 miles, are both counted as one trip.

Unless the contrary is stated, the term *trip* in this Report means a ship's voyage for which pilotage dues must be paid, either because a pilot was employed or on account of the compulsory



payment system. It does not include other maritime traffic, i.e., exempt vessels which do not employ a pilot.

Trip in the sense of pilotage voyage varies in meaning according to whether it is considered from the point of view of vessels paying dues or pilots being assigned. The distinction is not always clearly made, thus causing apparently contradictory statistics. A pilot is not necessarily assigned for every trip because some non-exempt ships proceed without a pilot but pay dues, and also from December 1 to April 8 two pilots are assigned for a trip. Hence, to avoid confusion in this Report, the following expressions are used:

- (i) *trip*: a ship's voyage for which pilotage dues must be paid;
  - (ii) *trip (vessel)* or *vessel trip*: a trip in terms of vessels affected, including non-exempt ships which did not employ a pilot. The necessary qualificatives are used when it is necessary to differentiate, such as "trip (vessel) without pilot" and "trip (vessel) with pilot";
  - (iii) *trip (assignment)* or *assignment trip*: the number of times pilots were employed during trips (vessel); hence, excluding vessel trips without a pilot but including double winter assignments.
- (b) The term *trip* (referred to in this Report as *tariff trip*) is also used to mean a unit for tariff purposes. The tariff (Schedule A of the District General By-law) provides rates for three distinct tariff trips: (i) between Quebec and Father Point, (ii) between Chicoutimi or Port Alfred and Father Point and (iii) between Chicoutimi or Port Alfred and Quebec, and vice versa. The first two tariff trips call for the same rate while the third calls for a slightly higher rate because it is longer. For the purpose of computing dues for shorter voyages, each tariff trip is divided into zones, the dividing lines on the St. Lawrence River being (i) between St. Roch Point and Cape St. Joseph and (ii) between Red Islet and Prince Shoal; on the Saguenay River, Cape Trinity.
- Hence, the first two tariff trips are divided into three tariff zones and an assignment entirely performed in one or two of those zones calls for a charge amounting to one-third or two-thirds of the applicable rate for these traffic trips. The third traffic trip is divided into four tariff zones.
- (c) *Trip* is also used loosely to mean workload, e.g., subsec. 4(1) of the General By-law (p. 21) as the criterion for determining the establishment of pilots, and subsec. 15(2) when referring to the equalization principle to be followed in despatching (p. 22).

In practice, the term *turn* is used instead but in this Report *trip* will not be used in this meaning unless clearly indicated.

(2) *Turn* mainly refers to the pilots' workload but in its natural meaning is also a pilot's place on an assignment list. When it has this connotation in the Report, it is clearly apparent from the context, e.g., a pilot is third on turn, or a pilot may change his turn with another pilot.

*Turn* generally means the work unit which the pilots have devised for the purpose of sharing pilotage workload and revenues. On account of their special and incomplete pooling system it applies only to *trips* (*assignment*) (not *movages*) and is defined in the despatching rules by reference to *tariff trips* as follows:

- (a) any assignment trip for which more than half the basic tariff is charged is worth one full turn;
- (b) one-third of the basic charge equals half a turn;
- (c) an assignment trip between Port Alfred and Chicoutimi, which normally accounts for half a turn, is worth a full turn when a pilot has to come by land transportation from another station;
- (d) the value in turns of a trial trip is left to the discretion of the Supervisor (p. 438).

When so used, the term *turn* may have six different meanings, depending upon the point of view:

- (a) *Performed turns* are the work units representing assignment trips performed by a pilot.
- (b) *Free turns* are turns fictitiously credited, both for despatching and pooling purposes, as performed turns. They are the form of compensation granted by the pilots to those of their colleagues who have donated some of their pilotage time to their common interests, e.g., attending meetings of the Board of Directors of their organizations, participating in delegations or performing special work for the pilots as a group (p. 281), or who for reasons beyond their control have missed a turn or turns because of an unusually long assignment.
- (c) *Lost turns* mean the average number of turns performed by the pilots who were constantly available prior to the date of a pilot's appointment or during a pilot's absence from duty when not entitled to the benefit of the equalization rule, e.g., non-availability due to the suspension of his licence, or because he has elected to receive illness benefits in the form of indemnity turns.
- (d) *Indemnity turns* mean turns credited for pooling purposes in partial compensation for turns missed due to illness or licence suspension or cancellation.

- (e) *Despatching turns* are the number of turns to a pilot's credit on the despatching list. They comprise performed turns, free turns and lost turns, but not indemnity turns.
- (f) *Sharing turns* are the units used in the operation of the pool to determine the pecuniary value of the sharing unit and each pilot's aggregate share in the pilotage money being pooled. They comprise performed turns, free turns and indemnity turns, but not lost turns or turns over the maximum average.

When the expressions *trips* and *turns* are used indiscriminately and without qualification, much confusion is liable to ensue. The following table is an example of the statistics represented by some of these different connotations.

Year	Trips (Vessel)			Trips (Assignment)		Sharing Turns	
	With Pilots	Without Pilots*	Total	Second Pilot†	Total‡	Free Turns§	Total**
1955.....	5,647	—	—	—	5,647	—	5,602½
1956.....	6,114	—	—	—	6,114	—	6,020
1957.....	5,951	100	6,051	—	5,951	—	5,835
1958.....	6,172	64	6,236	—	6,172	—	6,080½
1959.....	7,298	118	7,416	—	7,298	—	7,256½
1960.....	7,184	119	7,303	293	7,477	80½	7,663
1961.....	7,229	103	7,332	284	7,513	55½	7,827
1962.....	7,258	101	7,359	319	7,575	85	7,990½
1963.....	7,199	104	7,303	460	7,659	186	8,061½
1964.....	8,117	74	8,191	490	8,607	148½	8,967
1965.....	8,515	63	8,578	529	9,044	62½	9,390½
1966.....	8,812	91	8,903	744	9,556	75	9,771½
1967.....	8,415	170	8,585	751	9,166	75	9,564½
1968.....	8,393	12	8,405	770	9,163	102	9,452½

\*Sources: Exs. 534(a), 589 and 1308. Figures for 1955 and 1956 not available.

†Source: Ex. 534(a). The despatching in winter of a second pilot was officially introduced by the By-law amendment of November 25, 1960; there is no record in the annual statements of the unofficial practice in the previous years—the 1960 figure, therefore, covers only the month of December.

‡Source: Ex. 534(a).

§Source: Ex. 654. Free turns were introduced in 1960.

\*\*Source: Ex. 597.

### Number of Pilots

*Number of pilots* has different meanings according to the point of view: these meanings are rendered in this Report by the following terms and expressions:

- (1) *Pilot establishment* or *authorized pilots' strength* is the maximum number of pilots that may hold a licence at the same time and, hence, the total number of pilots the Pilotage Authority may



license. This number must be defined by regulation (Part I, pp. 255 and ff.). It may be changed by an appropriate amendment to the regulations increasing or decreasing establishment. Therefore, the expression by itself means the authorized number on a given date, and it must be qualified when it is intended to refer to the average authorized number of pilots over a period of time, i.e., to provide an average figure on a daily basis during that period. Hence, the expression might take the form of *month establishment* or *year establishment*.

- (2) *Pilots on strength* is the actual number of pilots who hold a licence at a given time. A *minus* discrepancy of one or more pilots between the establishment and actual strength connotes one or more vacancies. A *plus* discrepancy is legally not possible since the licence of any pilot appointed in excess of the establishment would be void.
- (3) A *year pilot* is a pilot who held his licence for the whole of the navigation season. For instance, if the normal navigation season is from April 1 to December 31, a pilot who retired June 30 or one who was licensed October 1 would be counted in each case as a 1/3 year pilot.
- (4) Availability for duty is the governing factor in the statistical concept of an *effective pilot*. Hence, according to the natural meaning of the term, a pilot who is not available at a given moment for any reason except being already on duty or taking a required rest period between assignments should be counted as ineffective, whether the cause of non-availability is a regular holiday, sickness or suspension of his licence. Here again, the expression can be made to refer to the situation at a given moment or over a defined period of time by employing the appropriate qualificative.

The *effective pilot* concept was used by the Department of Transport for statistical purposes but, due to restrictive and frequently amended definitions, the information it was hoped to convey was not comparable from year to year or between Districts. The Department of Transport's main restriction on its meaning was counting annual leave and regular holidays as time available. Statistics compiled on this basis have no comparative value between the District of Quebec and most of the other Districts because the rules governing the availability of pilots differ. In the Quebec District, there is no regulatory leave with pay nor is the workload shared on the basis of actual availability but through the system of equalization of turns (Part I, p. 147). Nor are the statistical figures thus obtained comparable from year to year because the method of computation has been changed a number of times. For instance, in the District of Quebec the 1960 financial statement shows an effective pilot figure calculated on the number of turns credited to



each pilot each month. In 1961, different methods of calculation were used for the first and the second half of the year: for the first half the former method (monthly basis) was used but in the second half a daily basis was used. However, the figures quoted since 1962 for the District of Quebec conform to the natural meaning of the term since all absences are deducted. Still, those figures do not compare with those of the previous years, nor with those of other Districts.

Accurate effective pilot statistics would have helped to give an accurate picture of the availability of pilots but the Commission could not rely on statistics compiled by the Department of Transport on this basis and reliable data were not available to enable the Commission to compile its own effective pilot statistics. Instead, the Commission resorted to statistics that were sufficiently accurate and more easily obtainable, i.e., based on *year pilots*. These figures also have the advantages of a common denominator with other Districts and consistency from year to year.

Since to date there has been comparatively little traffic in January, February and March in the District of Quebec, neither workload nor remuneration have been greatly affected by the variation in strength during that period. For this reason, the *year pilot* figure for the District of Quebec has been calculated on the normal navigation season. Hence, a pilot who held his licence from April to December inclusive is counted as 1 year pilot without considering whether he was unavailable at any time for suspension of his licence, illness or absence with or without leave. These factors do not vary greatly from year to year and have no great significance, especially in the District of Quebec where the equalization rule applies.

The following table shows the number of pilots according to the various methods of calculation used for the period 1955-1968.

Year	Establishment as of December 31	Pilots Holding a Licence during Any Part of the Year	Year Pilots	D.O.T. Effective Pilots
1955.....	65	67	64.6	—
1956.....	73	76	70.1	—
1957.....	73	72	68.6	—
1958.....	73	72	68.5	63
1959.....	76	78	73.3	64
1960.....	77	82	75.4	72.3
1961.....	77	78	76.8	71.3
1962.....	77	79	77.0	69.55
1963.....	77	79	76.8	69.12
1964.....	82	85	79.2	76.12
1965.....	86	87	85.7	84.04
1966.....	86	88	85.2	82.1
1967.....	86	89	86.0	74.5
1968.....	88	90	87.5	—

## 1. GENERAL DESCRIPTION

### (1) DISTRICT LIMITS

The Quebec Pilotage District comprises the first section of confined waters along the waterways which run for some 2,300 miles through the Gulf and River St. Lawrence and the Great Lakes system to the Lakehead. In addition, it includes the navigable waters of the St. Lawrence tributaries but these, in practice, are limited to the Saguenay River as far as Chicoutimi because none of the other rivers in the District are navigable except at their mouth which normally forms part of a harbour, e.g., the St. Charles River at Quebec.

#### (a) *Eastern Limit Problem*

The eastern limit of the District as stated in sec. 322 of the Canada Shipping Act no longer describes the *de facto* boundary because no pilotage is performed by the licensed pilots of the District in the 37-mile stretch between Father Point and Anse aux Basques. This discrepancy arose when the boarding station was moved westward in 1960 to its present location off Anse aux Basques (for pilotage purposes the pilot station and the boarding area are referred to by the name of the nearby village Les Escoumins).

The situation now is that the pilots embark and disembark off Les Escoumins and do not perform any pilotage service in the ports situated east of that point, i.e., Forestville and Rimouski, although they are still within the District limits. Hence, the Pilotage Authority is placed in the equivocal position of not enforcing in that sector the compulsory payment of dues which it enforces in the rest of the District. On the other hand, the pilots complained that, if they were despatched to perform pilotage duties in those ports, they would have to obey the order but would be at a financial disadvantage because they would have to bear personally the cost of the land transportation involved. Such assignments have not been given, however, because the Pilotage Authority condones the illegal pilotage being performed in this sector by unlicensed pilots with the full knowledge of the licensed pilots.

The reason why the description of the eastern limits was not corrected is because, in the opinion of the Department of Transport, it would be necessary to amend sec. 322 C.S.A. It seems that in practice it is next to impossible to effect a change when the required process involves an amendment to the Canada Shipping Act. It took almost 30 years to have the description of the District modified to conform with the situation that existed after the pilot station was moved from Bic to Father Point in 1905. The 1960 move from Father Point to Les Escoumins has not as yet been given official recognition by correcting sec. 322 C.S.A.

The Pilotage Districts of Quebec and Montreal are now the only two Districts whose limits are still fixed by legislation, and the opinion has been expressed that the Governor in Council has no authority to alter these limits (p. 9).

Before the station was moved in 1960, the Department had proposed to solve the problem in an indirect way by removing from sec. 324 C.S.A. the restriction on the Governor in Council's power concerning the Districts of Quebec and Montreal. This was one of the objects of Bill S-3 which was particularly objected to by the pilots' representatives. The Bill passed the Senate with many amendments but violent objections against certain parts of the Bill were again raised in the House during second reading, especially against the sections dealing with the proposed system for the Great Lakes and also against anything that would deprive the St. Lawrence pilots of their former privileges. The Bill was not withdrawn, it simply had not been passed when the House adjourned and since that time it has neither been revived nor reintroduced.

The pilots were ready to agree that the Governor in Council should have power to alter the limits of the Quebec and Montreal Districts because they realized that conditions were no longer the same, and they themselves had asked for some modifications to the limits.

They objected, however, to the way it was proposed to achieve this, i.e., through the deletion of the limitations on the Governor in Council's powers contained in sec. 324 C.S.A. which provided greater powers than were sought. The proposed legislation would have empowered the Governor in Council not only to amend the District limits but to rescind these Districts. The pilots argued that this would endanger their "acquired rights" which were guaranteed to them at that time by specific sections and restrictions in the Act, e.g., the existence of these Districts, having the Minister as Pilotage Authority and, it was believed, the compulsory payment system.

When Bill S-3 was discussed, the problem had existed for some years in the Montreal District which had, in fact, already been divided into two sectors at Three Rivers. During the debates before the Senate Committee, the then Deputy Minister, Mr. J. R. Baldwin, pointed out that there was as yet no problem with regard to the Quebec District limits but he believed that a problem would soon arise because there were discussions under way with the pilots regarding the eastern boundary.

When the transfer from Father Point to Les Escoumins was completed, the Department decided to dispose of this particular aspect of the problem at the first opportunity by a pertinent amendment to the description of the limits in sec. 322 C.S.A. On October 3, 1960, the Director of Marine



Regulations wrote to the president of the Pilots' Committee to that effect and suggested that sec. 322 be amended to read as follows (Ex. 1318):

"322. The Pilotage District of Quebec comprises that part of the River St. Lawrence from the western limit of the harbour of Quebec to an imaginary line drawn from the harbour of Les Escoumins on the north shore to the harbour of Trois Pistoles on the south shore of the River St. Lawrence, together with those parts of all rivers, waters, harbours, creeks, bays and coves within the said limits where tide ebbs and flows, and includes the Saguenay River."

On November 9, 1960, the president of the Pilots' Corporation reported the agreement of the Quebec Pilots' Committee.

However, the proposal was not implemented. There is no record in the Department of Transport files to show why the amendment was not submitted to Parliament and no one can recall why the matter was not pursued. The opinion was expressed that the 1960 amendments to the Canada Shipping Act dealt with Great Lakes Pilotage only and that it was essential for these amendments to be made without delay so that joint operations with the United States authorities could commence. After the experience with Bill S-3 it was decided not to submit any other amendments which might be controversial and might cause delays in the passage of the Great Lakes pilotage amendments (Ex. 1456(w)).

At the Commission's hearings, the Department of Transport counsel remarked that whether a provision is to go into a Bill that will be introduced in Parliament is a matter of Government policy which is decided by the Cabinet.

(b) *Western Limit*

There is no difficulty about the western limit of the District except the process of determining its exact position: sec. 322 C.S.A. merely states that it coincides with the "western limit of the harbour of Quebec". The Commission received no complaints or recommendations in this regard.

The adjacent Pilotage District, the District of Montreal, overlaps the Quebec District to include the harbour of Quebec. However, the harbour of Quebec forms part of the Montreal District in a limited way only, i.e., it serves only as a boarding area for the Montreal pilots. On a downbound trip the Montreal pilots disembark either at a wharf in the harbour, or, if the ship is in transit, in mid-river in front of Quebec at the time of the change-over of pilots, and vice versa for the upbound trip. But only the Quebec pilots perform a movage in the harbour of Quebec, unless it concerns the completion of a downbound trip from upriver after a vessel has anchored within the harbour to await favourable tidal and weather conditions to proceed to her wharf. The compulsory dues payable by a non-exempt ship which completed a movage without a pilot are collected by the Quebec Pilotage Authority and credited to the Quebec Pension Fund (Ex. 1461(r), pp. 8-10, and Part I, pp. 480 and 481).



## (2) PHYSICAL FEATURES

### (a) *General Description of Quebec District*

The St. Lawrence River and all its navigable tributaries are included in the pilotage waters of various Pilotage Districts, with the exception of the area beyond the *de facto* eastern limit of the Quebec Pilotage District, i.e., a zone approximately 252 miles long between this limit extending seaward to the official boundary between the River and the Gulf—a line joining Cap des Rosiers and West Point, Anticosti Island, and thence to the north shore of the River St. Lawrence along the meridian of longitude 63° west, i.e., east of Havre St-Pierre (subsec. 2(41) C.S.A.).

The width of the River at its official eastern boundary is about 80 miles. The north shore runs due west 88 nautical miles from the boundary to Sept-Îles and then curves for 70 miles southwestward to Pointe des Monts where the River is 24 miles wide. Between Pointe des Monts and the pilot station at Les Escoumins, a distance of 94 miles, the River narrows progressively to a width of 12 miles of navigable water. Navigation is unobstructed (except by ice during the winter and spring) until the first shallows are met at Red Islet Bank, some 12 miles west of Les Escoumins off the mouth of the Saguenay River.

Harbours along the River east of Les Escoumins do not present any particular navigational difficulties and there is no organized public pilotage service at any of the ports situated in that area. However, pilotage service, if required, can be obtained locally. At wharves and ports that are privately owned and operated, local pilotage and tug services provided by the owner are generally mandatory (vide Sec. Two, *Lower St. Lawrence River Ports and Areas*).

The previous location of the boarding station off Father Point, some 37 miles to the eastward from Les Escoumins and on the south shore, was merely one of convenience when the South Channel was maintained to accommodate deep draught vessels. In 1905, the boarding station had been moved eastward from Bic Island to Father Point on account of the obstructions created by Bic Island. Father Point was also considered preferable because vessels had more sea room to embark and disembark pilots. However, the first 49 miles of pilotage were in open water and pilotage really began where it does now, i.e., off Red Islet.

The pilots claim that the pilotage trips in their District are the longest in the world if one excludes coastal pilotage such as in the British Columbia Pilotage District. The distance between Quebec and Les Escoumins is 123 sea miles using the North Channel and some two miles longer by the South Channel. From Les Escoumins to Chicoutimi the distance is 81 miles, from Quebec to Baie des Ha Ha (Ha Ha Bay) harbour (Port Alfred), 152 miles and from Quebec to Chicoutimi, 165 miles.

(b) *Main Navigational Features*

At the time of the Commission's hearings there were four features common to the whole District: tides, unreliable radio communications, small vessel traffic and ice conditions during winter and spring.

- (i) Tidal effects are felt throughout the District. Spring tides both at Quebec and Chicoutimi vary between 16 1/4 and 19 1/2 feet and sometimes rise even higher in strong winds. Under the influence of tides and water flow the currents change direction and velocity up stream or down frequently reaching a velocity of 6 to 7 knots and often creating an unexpected hazard by flowing across the ship channel. The capricious behaviour of the currents and their extraordinary velocity at places like Coudres Passage and the Saguenay estuary were the subject of thorough surveys carried out by the Canadian Hydrographic Service of the Department of Mines & Technical Surveys in 1939, and a comprehensive and detailed report entitled "Tidal Current Charts St. Lawrence Estuary Orleans I. to Father Point" was published (Ex. 510).

Mr. H. L. Land, officer-in-charge of the St. Lawrence Ship Channel Division of the Department of Transport, warned that, although information about the direction and speed of the currents can be obtained from the hydrographic navigation charts, it is limited and more knowledge can be gained by frequent use of the channel.

- (ii) Lack of adequate radio communications used to plague the whole District. Existing equipment and installations did not overcome the barrier created by the mountainous features on the north shore of the St. Lawrence as far as Cap Tourmente near Orleans Island and in the fiord-like Saguenay River. This has since been greatly improved (vide pp. 180 and ff.).
- (iii) Small coastal vessels will always create problems but this traffic is a local necessity which must be endured. Between 1920 and 1940, the problem became so serious that a Royal Commission was convened to study the situation and determine what remedial action could be taken (p. 70).

Many schooners still ply the St. Lawrence and Saguenay Rivers. The number is gradually decreasing and wooden schooners are disappearing as they are replaced by larger steel vessels. On the Saguenay their cargoes are mostly lumber and pulpwood, the latter collected from the small village wharves on the lower part of the St. Lawrence River, mainly on the south shore. The Department of Transport reported that the situation had much improved because the river schooners are now classified as steamships and their Masters must possess a Certificate of Competency. They now gener-

ally abide by the rule of the road and the St. Lawrence River Navigation Safety Regulations made pursuant to sec. 645 C.S.A. (Ex. 1461(j)). This opinion is also shared by the pilots. The schooners' Masters now take winter courses in order to qualify for a certificate as Master, Inland Waters. There are four schools available to the local mariners in the winter months.

Secs. 7 and 8 of the "St. Lawrence River Regulations" of 1954, which then applied to the Quebec Pilotage District, read as follows:

"7. No vessel drawing nine feet of water or less and no barge or raft shall, except in case of accident, stress of weather or force of current use the deep water channels.

...

(f) in the dredged channel below Quebec known as Madame Reef-Brule Bank Channel, between Buoys 120½B and 112B except Buoys 114½B and 114B; or

(g) at or near Buoys 109½B, 109B and 108B" (Brûlé Bank and Longue Pointe ledge area).

"8. Vessels drawing nine feet of water or less and barges and rafts shall at all times keep to the proper side of the fairway and away from the established steamer track between Quebec and Father Point except when crossing the steamer track at right angles."

Navigational problems arise because these schooners and other small craft must use established steamer tracks under certain circumstance, are slow and have little power and ply between communities on both shores of the St. Lawrence and the Saguenay. In some places, they must use the ship channel because there is not sufficient depth of water elsewhere. Since their average speed is only 4 to 7 knots, they avoid stemming strong currents and take advantage of those that are favourable. Because their operators are well acquainted with local river conditions, they criss-cross in their shallow draught vessels from one channel to the other over banks and ledges making the best use of currents and taking the shortest route to their destination.

On practically every trip, vessels in the lower St. Lawrence meet or overtake small craft crossing the regular shipping channels from different directions. Their apparently erratic behaviour is a source of constant danger for large fast vessels and there have been several near misses and occasional accidents. In conditions of poor visibility, the situation is aggravated because wooden schooners make poor radar targets. It was suggested to the Schooner Association that these schooners be equipped with radar reflectors.

The danger is compounded when, in addition, they disregard the rule of the road and the St. Lawrence River Regulations. For instance, one pilot reported that while upbound on July 18, 1963, he almost had a collision with a small laker near Cape Dogs when



visibility was impaired by fog. The small vessel was located by radar sailing on the wrong side of the channel. Attempts to reach her by radiotelephone were in vain.

Another pilot reported that on August 29, 1963, he had a dangerous meeting with a schooner which proceeded across the channel without giving any signal or answering the radiotelephone, and it was only by a last minute manoeuvre that a collision was avoided. In this case, the schooner was crossing the channel from St. Joseph wharf to Ile aux Coudres wharf.

There is no organized system or patrol to enforce the Regulations but the pilots have been requested to report any violations with the necessary particulars, and the Department of Transport has undertaken to prosecute the offenders.

The Shipping Federation of Canada reported that a number of accidents occurred with schooners whose Masters claimed that sec. 8 of the Regulations quoted above did not apply to them because their draught was a few inches more than 9 feet. Apparently this nine-foot limit was originally chosen because it was their maximum draught at the time the Regulations were drawn up, but this is no longer the case. Pilot Michel Dussault stated that these small vessels are a navigational hazard to large ships and have created several dangerous situations. He agreed with the Shipping Federation's suggestion that there is sufficient depth for them outside the steamer track almost everywhere in the District, and that the Regulations could be improved by raising the draught requirement to 10 or even 12 feet and by making it applicable to all vessels of less than 150 feet in length.

These regulations were superseded by the "St. Lawrence River Navigation Safety Regulations" (P.C. 1967-700 dated April 13, 1967, Ex. 1461(j)). The restrictions were not increased as suggested and the former sec. 8 was not reproduced. That part of the former sec. 7 pertaining to the Pilotage District of Quebec became subsecs. 4(1)(c) and (d) which read as follows:

"4. (1) No vessel drawing nine feet of water or less and no barge or raft shall, except in case of accident or stress of weather or when engaged in survey work authorized by a department or agency of the federal government or of a provincial government, use the St. Lawrence River deep water channel

...

(c) in the dredged channel between Madame Reef near Pointe St. Jean and the downstream end of the North Traverse opposite Seminaire Spit; or

(d) in the dredged cut through Longue Pointe ledge."



- (iv) Ice in the Gulf of St. Lawrence takes three forms: berg ice which enters the Gulf through Belle Isle Strait, flat or pan ice formed in the Gulf itself and river ice from the St. Lawrence and its estuary.

The River begins to freeze in late November or early December and there is heavy ice at the mouth by the end of the month. Except for specially constructed vessels and ferries, navigation in the River is normally closed from the end of November to mid or late April, but of recent years an increasing number of reinforced vessels have succeeded in reaching Montreal and Quebec City during the winter months (pp. 197 and ff.).

(c) *North and South Channels of the St. Lawrence*

The navigable waters of the St. Lawrence east of Quebec City contain two channels: the North Channel, which is used by most vessels and by all large ships, and the South Channel, which is now used only occasionally by vessels of light draught. The North Channel begins south of Orleans Island off St. Jean, runs through the North Traverse, passes Cap Brûlé, continues along the north side of the River through Coudres Passage, thence passes either north or south of Red Islet and merges into open water down to Les Escoumins. The South Channel, which also begins south of Orleans Island, continues along the south side of the River south of a series of islands, reefs, and banks including Madame Island, Ruaux Island (in 1637, this island was granted to the Jesuit Fathers under the name *Ruaux*; the spelling altered to *Reaux* but on June 4, 1959, was officially confirmed as Ruaux), Grosse Ile, Crane Island and Goose Island, thence through St. Roch Traverse, south of Hare Island and Red Islet and merges into open water down to Les Escoumins.

The North Channel is kept fully maintained to accommodate large ships and is used by the bulk of the traffic. The nine-mile North Traverse was dredged to connect the deep water of the North Channel, four miles east of Orleans Island, with the Main Channel between St. Jean, Orleans Island, and Madame Reef, two miles northeast of that point. The 22-mile arm of the River north of Orleans Island, named the Orleans Channel, is shallow, lined with flat mud banks and is not maintained.

Prior to 1934, most vessels used the South Channel which, up to that time, was maintained at a minimum depth of 30 feet at low water and at widths varying between 700 and 4,000 feet. It curves through reefs and other obstacles and, in certain areas, currents up to eight knots are encountered.

As vessels increased in number and size, the channel needed to be straightened, deepened and widened, and new, more modern aids to navigation had to be adopted. After all factors had been considered, it was decided to abandon maintenance of the South Channel in favour of improving the North Channel, although this meant dredging the nine-mile North Traverse to the southeast of Orleans Island.

Many factors militated in favour of this choice. With the exception of a small area off Cap Gribane and Cap Brûlé (2½ miles apart) where silting occurs, the North Channel was deeper, straighter and wider and had fewer obstacles, in sharp contrast to the South Channel where extensive dredging was necessary to maintain a thirty-foot depth. The ice factor in winter and spring was also in favour of the North Channel because the prevailing northwesterly winds keep it moderately clear of ice, except for one area in the Coudres Channel where flood tides cause congestion. The natural outflow of St. Lawrence River ice is along the south shore where the shallows and narrow passages cause numerous accumulations. This is why the former boarding station at Father Point closed early in the fall and opened late in the spring, with the result that the pilots had to travel long distances to embark or disembark at Gulf or coast ports such as Baie Comeau, Sept-Îles, Sydney or Halifax and, in some cases, had to continue overseas because they were unable to disembark in Canada. On the other hand, the generally ice-free condition of the north shore allows Les Escoumins to operate throughout the year.

In 1964, the South Channel had retained all its original disadvantages and, in addition, had deteriorated over the years because dredging and maintenance were abandoned, e.g., in Beaujeu Pass silting reduced the channel depth to 17 feet at low water, and the exact depth was not known in many places between 1949 and 1964 because soundings had not been made in spite of many requests by the pilots. On October 7, 1960, Mr. H. L. Land, Chief Engineer of the River St. Lawrence Ship Channel Division, Department of Transport, wrote in reply to such a request that the soundings available then dated back to 1949, and that soundings had been discontinued because it was "not the policy of the Department to maintain the south channel" (Ex. 667). Hence, depth indications on charts of the area could not be relied upon but, nevertheless, no notice of *caution* appeared and no Notices to Mariners were issued. At long last, after insistent requests by the pilots, some soundings were taken in 1964. Because of "more pressing commitments" a full survey was not made, but Beaujeu Channel was sounded in November 1964, by C.C.G.S. *Beauport*. Considerable silting was evident in the vicinity of buoys 69B and 70B (Ex. 1464(h)). The shallowest areas indicated by the survey provided only 10½ feet of water.

In addition to the discontinuance of maintenance dredging, some aids to navigation were degraded, e.g., the lights on Bellechasse Island and Grande Ile and at Kamouraska were changed from watched to unwatched lights.

However, the South Channel still remained a regular, navigable route but, because of its limited depth, it was not used as often as the North Channel. The pilots also tended not to use it at night because unwatched lights were less reliable but some pilots thought it safe and took it frequently and, on occasion, considered it preferable, e.g., for a slow assignment involv-

ing a tug and tow which could be a hindrance in the North Channel, especially in a strong current. In 1962, pilot M. Dussault went by the South Channel on about 12 of the 104 trips he made that year: one was a large "laker" in ballast, one or two were low-powered colliers and the remainder were smaller vessels.

(d) *Quebec District Described in Three Sections*

The Quebec Pilotage District readily divides into three sections each with its own peculiarities: (i) from Les Escoumins to Goose Cape, where the channel is relatively wide but the currents are rather treacherous and fog is frequent; (ii) from Goose Cape to Quebec, where the channel is narrower and, hence, there is greater danger when vessels meet; (iii) the winding, fiord-like Saguenay River.

(i) *St. Lawrence River—Les Escoumins to Goose Cape*

When upbound vessels take a pilot, they stop or slow down at the Les Escoumins pilot boarding station. They must keep a good lookout for the ferry that plies between Les Escoumins and Trois Pistoles on a regular daily schedule during the navigation season, and also for the vessels that congregate in the boarding area. However, this area is open water and there is little danger except when visibility is poor.

Above Les Escoumins, the first navigational problem is met off the mouth of the Saguenay River. Vessels not bound for a Saguenay port used to proceed up the St. Lawrence either north or south of Red Islet. The southern course is normally selected for vessels taking the South Channel but Masters proceeding by the North Channel make their decision according to circumstances and prevailing conditions.

In clear weather, there is no danger in taking the northern course where the channel is at least two miles wide, provided the Master or pilot is fully aware of local conditions. A deciding factor is the state of the tide, since time may be gained using the southern course due to the difference in the direction of the currents north and south of Red Islet.

There are other navigational hazards at the mouth of the Saguenay. The river's discharge meets the tidal flows in the St. Lawrence and the resultant currents move strongly in various directions, following a clockwise pattern and varying in intensity according to the stages of the tide. Heavy traversing traffic is also encountered: ocean-going ships sailing up and down both the St. Lawrence and the Saguenay, as well as numerous coastal vessels, including low-powered river schooners, which must be closely watched because they are greatly affected by strong cross-currents and also because their light draught permits them to cross over the bank and "cut the corner". Hence, there may be several of them approaching from different directions at the same time. Fog, which is frequent in this area, compounds these dangers. At such times, there is a tendency for small vessels to use the safer north course,



especially now that the south route lacks the fog signal formerly emitted by the Red Islet lightship (now replaced by a buoy). The net result is increased traffic in the most difficult part of the channel when visibility is most often impaired. (For serious casualties in this area, vide pp. 367 and ff.)

When the boarding station was at Father Point the pilots normally went south of Red Islet. After the move to Les Escoumins, although the north route was generally taken, some pilots continued to follow the south course out of habit, or occasionally did so to meet the request of a Master.

The Security Committee of the Pilots' Corporation recommended that in adverse weather and in poor visibility the pilots pass south of Red Islet when downbound and north when upbound in order to facilitate traffic (Corporation Bulletin, May 1, 1963, Ex. 688), and suggested that it would be a safety precaution if all ships were obliged to comply with this rule.

The Department of Transport has since adopted the pilots' suggestion and has gone even further by making the two lanes mandatory at all times, irrespective of weather conditions. However, the subject is covered in only one place and in a very indirect and oblique manner, i.e., in the Notice to Mariners dealing with the Marine Traffic Control System (No. 243 dated March 7, 1969, and other publications reproducing this Notice to Mariners such as the *St. Lawrence River Pilot*, 1st. ed., 1966, Supplement No. 2, p. 3, amendment to p. xxvii, and the pamphlet describing the Marine Traffic Control System). Moreover, despite the imperative language used, the instruction is concealed in a parenthetical remark on Red Islet in the section dealing with Mandatory Reporting Points. It is not contained in the *St. Lawrence River Safety Regulations*—as it should be if the intention is to make it mandatory (Ex.1538(j)). The reference in Notice to Mariners No. 243 reads as follows:

*"Reporting by Ships*

*Mandatory Reporting Points*

Upbound and downbound, transitting vessels are to report to the Control Centre when passing the following reporting points:—

...

7. Red Islet..... Westbound ships shall pass north of Red Islet. Eastbound ships shall pass south, but may pass north when entering the Saguenay River."

For five miles past the entrance to the Saguenay there is open water. There the River is about seven miles wide as far as Hare Island North Reef where the North Channel narrows to four miles. In this area, vessels sometimes criss-cross, e.g., they may pass north of Red Islet and then proceed to the South Channel which runs south of Hare Island North Reef, or vice versa.

In the 44-mile stretch of the North Channel from Red Islet to Goose Cape there is little navigational difficulty. At its narrowest, the channel is over three miles wide and compass courses are used for long distances.



However, the navigator must be alert and keep his ship in position along the right hand side of the channel. Care must be taken off St. Siméon, especially during fog, to watch for the ferry that plies between that point and Rivière du Loup. The north shore is bold and mountainous in that area with very deep water close up to the shoreline.

Morin Shoal lies ten miles from Goose Cape and four miles off Murray Bay where the North and South Channels merge. The channels are wide, extending about four miles on either side of the shoal, but the movement of traffic must be carefully watched. During periods of poor visibility, pilots pass south of Morin Shoal when downbound, and north when upbound.

In this region and toward the middle area of the river outside the channels, lie banks and shallow areas that make good anchorages. There are also sheltered areas close to the North Shore at Murray Bay and off St. Irénée. Upbound deep-draught vessels frequently use these anchorages to await favourable tidal conditions before negotiating Coudres Passage some ten miles to the westward.

In the same stretch of the South Channel, however, the situation is quite different. At its narrowest point between Barrett Ledges and Middle Shoals, opposite Rivière du Loup, the channel is less than a mile wide and is lined with extensive mud banks on both sides, those off the pier at Pointe de la Rivière du Loup extending seaward over a mile and a half. The St. Siméon-Rivière du Loup ferry is an additional hazard. Nevertheless, the South Channel is fairly straight here and can be negotiated by three long compass courses.

Between the western end of Hare Island Bank and Goose Cape, both South and North Channels merge into an area, 15 miles long and some five miles wide at its narrowest, which is unobstructed except for Morin Shoal mentioned above.

(ii) *St. Lawrence River—Goose Cape to Quebec City*

In the second section of the river, a stretch of some 60 miles from Goose Cape to Quebec, the channel narrows considerably. Fog is less frequent here than off the mouth of the Saguenay, but when visibility is greatly reduced it is a normal precaution to anchor until conditions improve because the channel is more restricted.

The river is still wide in the five-mile stretch from Goose Cape to Cap à la Baleine. Here again, vessels may be expected from several directions: some bound downriver, some crossing from the North to the South Channel en route to Rivière du Loup, schooners transiting the Middle Channel and other ships leaving or approaching the St. Roch Traverse.

It was in this area that, on September 5, 1964, a collision occurred between S.S. *Leecliffe Hall* and M.V. *Apollonia* (p. 370), resulting in the subsequent sinking of the *Leecliffe Hall*. Both vessels were using the North

Channel but proceeding in opposite directions. The collision occurred at the south side of the North Channel approximately two miles northeast of Pointe à la Baleine and 1.2 miles south of Cape Martin. The *Apollonia* was down-bound and had passed through Coudres Passage, while the *Leecliffe Hall* was upbound and heading towards Coudres Passage. In so doing, the latter ship apparently failed to keep close to the north shore, i.e., to the starboard side of the channel. The collision occurred during fog and while the *Leecliffe Hall* was crossing the channel to enter Coudres Passage, thereby presenting her port side to the *Apollonia's* bow (Ex. 1457).

Reefs, banks and islands divide the river into three main channels upriver from Cap à la Baleine:

- (A) Coudres Passage, north of Ile-aux-Coudres, which forms part of the North Channel;
- (B) Middle Channel in mid River; and
- (C) St. Roch Traverse, on the south side of the River, which forms part of the South Channel.

Middle Channel lies between shoals and islands and flows through narrow, intricate and difficult passages to join the South Channel. Because of this and its shallow entrance, it is not maintained as a regular channel and is not used by large ships. "Although by placing buoys where requisite, it would be possible to take large vessels up to Québec by Middle Channel were it actually necessary to do so, yet it is too intricate and difficult for general navigation." (*St. Lawrence River Pilot, First Edition 1966, p. 125.*)

The St. Roch Traverse could accommodate much deeper vessels but, since it forms the entrance to that part of the South Channel that extends to its western limit off Madame Island, access is limited by shallows, especially at Beaujeu Passage. In 1964, it could safely accommodate vessels drawing less than 16 or 17 feet, and even vessels of deeper draught with the help of the tide, but, in this case, traffic would be slowed down because these large vessels would be forced to wait for high tide to allow them to transit the shallow areas.

The channel through St. Roch Traverse and Beaujeu Passage is very narrow with currents up to seven knots during spring tides and of nearly this velocity during ordinary flood tides. The approach to the Traverse is marked by a lighted bell-buoy at its eastern entrance, then by three light-buoys (one a bell-buoy) placed zigzag to mark both sides and two light-buoys (one a bell-buoy) at the western end. These buoys have occasionally been carried away by the current.

This channel may be compared to a funnel through which a large body of water rushes. Beaujeu Passage is a dredged channel but, since it had not been maintained for several years, it has silted to a depth of some 17 feet at low water, and to a width of about 700 feet. The Passage is marked by buoys and a set of range lights. Throughout the area, attention must be paid to the

ferries that cross the river between Crane Island and Montmagny and between Berthier and Grosse Ile. Despite its limitations, it must be noted that the South Channel would prove very useful if a vessel sank in the narrowest part of the North Channel, i.e., the North Traverse, which is only 1,000 feet wide and might be completely blocked by such an accident.

The route taken by most ships is through Coudres Passage because it is deeper and wider. However, the speed and direction of the currents make navigation difficult.

Coudres Passage is wide enough for safe navigation (one mile at its narrowest part) but criss-cross currents running up to seven knots make it the most dangerous section of the North Channel. In addition, the Passage forms a continuous curve which bends sharply south at the western end where it is narrowest. A careful lookout must be maintained for the Cape St. Joseph-Ile aux Coudres ferry which presents another hazard.

When Coudres Passage is negotiated, exceptional precautions must be taken to keep to the right side of the channel, especially by small low-powered vessels which may have to allow as much as 15 or 20 degrees of leeway to offset the strong cross-currents. At night, they may confuse a navigator unacquainted with local conditions because their side lights may not indicate their true direction (re attempts to install a directional ail, vide pp. 160-162).

From the western end of Coudres Passage to Longue Pointe off Cap Gribane there is a 19-mile stretch where the channel measures a mile and a half at its narrowest. This can be negotiated in two straight long courses. It was in this area that on July 20, 1963, a collision occurred between S.S. *Tritonica* and S.S. *Roonagh Head*, resulting in the sinking of the *Tritonica* (p. 368). The collision occurred during fog, in mid channel off St. François wharf, Petite Rivière, about six miles southwest of Ile aux Coudres, where the channel is two miles wide (Ex. 1353).

Maintenance dredging is required in the North Channel only in the 2½-mile section between Cap Gribane and Cap Brûlé. The channel is restricted to about 1,000 feet between buoy 108, which marks the south side of Longue Pointe Ledge, and buoy 109, which marks the northeastern extremity of Brûlé Bank. This is one of two areas where small vessels must keep outside the dredged channel. Siltation is expected here. The pilots stated that between 1960 and 1964 they had reported to the Department of Transport various occasions when ships touched or grounded (Ex. 1319 and Ex. 652). Soundings revealed a 25-foot patch at low tide.

Dredging was undertaken in 1961 to maintain in this area a 35-foot channel at low water. Despite this, it was found that siltation was still in rapid progress, and there was no alternative but to retain in effect Notice to Mariners No. 15 of 1957, warning that the limiting depth in the area was 30 feet at lowest normal tides and that such limitation would continue until the Ship Channel Division could carry out a model study of the siltation problem



and more corrective measures could be devised. This situation still prevails (for a progress report as of May 1969, vide pp. 159-160). Because it is the shallowest area, it is the control point for vessels bound to or from the harbour of Quebec using the North Channel.

At Cape Tourmente two miles east of Cap Brûlé the rolling, low, mountainous terrain that forms the north shore of the river as far eastward as the mouth of the Saguenay River ceases and from Cape Tourmente westward to Quebec the shore line no longer ends abruptly but is composed of wide sloping mud banks. The navigable North Channel ends five miles west of Cap Gribane and becomes the North Traverse which crosses the river to funnel traffic into the wide, deep waters southeast of Orleans Island and merges with the South Channel to form the main channel to Quebec. Orleans Passage on the northwest side of the Island is not dredged, is very shallow and can accommodate schooners and small craft only.

The straight nine-mile North Traverse, lined with buoys and range lights in both directions, together with the  $2\frac{1}{2}$ -mile area between Cap Brûlé and Cap Gribane comprises the total  $11\frac{1}{2}$ -miles of maintenance dredging along the 123-mile route of the otherwise deep waters of the North Channel. To navigate through these dredged channels of limited depth in tidal waters requires careful planning and attention to detail. If a vessel draws more than 30 feet, the time of transit must be calculated to coincide with the state of the tide to allow sufficient water under keel. Otherwise, manœuvring would be most difficult.

Past the North Traverse where the South and Main Channels merge there is deep water as far as the Quebec Bridge. The wide Main Channel curves around the south side of Orleans Island and continues to Quebec harbour.

From the western end of Orleans Island the channel flows in a long curve, with swift cross-currents as it passes Lauzon. No set courses are followed here. Four buoys mark the ends of the banks off each shore and the navigator must determine his course according to the state of the tide, currents, weather conditions and traffic in order to keep on the right side of the channel at all times.

When negotiating the bend off the Lauzon Shipyards a strong ebb tide will force a downbound ship toward the west point of Orleans Island, although its direction is almost parallel to the channel, and a little further on it will draw her more into it. To negotiate the Lauzon bend and keep to her starboard side of the channel the downbound ship must initiate her course early, i.e., when abeam of the breakwater off the entrance to the St. Charles River. When an upbound ship is off the west end of Orleans Island a spring flood tide has a tendency to force her toward the north bank. The all important matter is that vessels either upbound or downbound must keep to their starboard side of the channel.



Small low-powered vessels stemming tides or currents in this area do not hesitate to cross the main channel and proceed on the wrong side if they can profit from a favourable current—otherwise they may have to anchor until the tide changes. In addition, these small vessels (and occasionally larger ships) have a tendency to “cut the corner” when bound upriver.

There have been many accidents in this area and bend of the river. On July 19, 1963, a triple collision occurred off Point Lévis between the vessels *Bariloche*, *Canadoc* and *Calgadoc* (p. 380). The primary cause of this accident was that during fog the upbound *Canadoc* moved to the wrong side of the channel while “cutting the corner” and thus crossed the path of the downbound *Bariloche* (Ex. 1466(1)). Some years earlier, on July 12, 1950, the Cunard liner *Franconia* suffered a spectacular grounding when she struck the west end of Orleans Island shortly after her departure from Quebec. It was stated that the current might have been a factor but the pilot should have known the situation and plotted his course accordingly. The pilot should know that the vessel’s speed over the ground is increased when downbound with an ebb tide and he should make the necessary alteration of course when approaching the bend. The wind would also have to be considered.

At nighttime, extreme caution must be exercised by upbound vessels since the navigation lights of a downbound ship can be completely lost in the background light of downtown Quebec and Beauport and the ship may be seen only at the last minute if she is met in the bend. This danger is compounded by the oncoming ship showing first her green light and then her red, as she conforms to the bend of the channel. This, however, should be expected.

The main difficulties to be met in the harbour are: harbour traffic, vessels at anchor, tides and their changes, and counter currents.

The ship channel winds through the harbour past the city of Quebec in a long double curve decreasing in width from three quarters of a mile to half a mile opposite the pilot station, four and a quarter cables off Sillery, at Pointe à Puiseaux, and two and a half cables at the Quebec Bridge.

The main hazard when proceeding through the harbour is traffic approaching from all quarters. In addition to vessels in transit, there is cross-traffic from the shipyards at Lauzon on the south shore, from the St. Charles River Basin, from the Princess Louise Basin and from berths at various locations in the harbour. All must be carefully watched.

Most of the docks, wharves, piers and harbour facilities are located on the Quebec side where they extend for four miles from the St. Charles River estuary to Sillery pier. The harbour facilities are now being extended eastward from the St. Charles River over Beauport Bank. The jetty extending seaward on the east side of the St. Charles River estuary when completed

should provide some protection against flood currents on piers situated inside the estuary. There are also many locations on the south side where traffic flows, i.e., the two dry docks, marine railways and several wharves at Lauzon, as well as a small shipyard and a Government deep-water wharf opposite Quebec. Oil wharves are expected to be erected by private concerns on the south shore at St. Romuald.

Traffic may be encountered all along the north shore but most concentrations of shipping are at the extremities of the harbour: in the east, off the hidden St. Charles River Basin and Princess Louise Basin and, in the west, off Wolfe's Cove Terminal and Sillery pier. In between are the Department of Transport wharves and other privately-owned wharves and piers, e.g., those used by the Lévis ferries, by Canada Steamship Lines and by tugs.

The Lévis ferries cross the river every 20 minutes in the navigation season, except for a few hours after midnight when they cross at longer intervals. However, the pilots acknowledged that their Masters are most co-operative and can always be relied upon to give the right of way: "They can not be requested to do any better, it would be impossible."

Ships in transit change pilots in the straight stretch after the Lauzon bend where the River narrows between the cities of Quebec and Lévis. It was remarked that vessels performing that operation should keep to the starboard side of the channel; otherwise, they would be inviting an accident in bad weather. Downbound vessels should not come near the Quebec side of the River to embark or disembark a pilot unless the weather is clear and there is no upbound traffic.

There are no finger piers, and the movement of vessels along the various wharves can be easily detected, except for the enclosed Princess Louise Basin and the St. Charles River Basin where outgoing traffic creates a serious problem.

The entrance to the Princess Louise Basin is through a 66-foot opening reduced to 63 feet by the fenders on the wharves which face the River. Vessels proceeding out present a special hazard because they are completely concealed from the traffic on the River and can not see passing vessels. In order to clear the narrow opening, they must maintain good speed to maintain steerageway, especially if a cross-current is met at the exit. They have some headway when entering the River and can not be stopped immediately.

Similarly, a vessel coming out of the St. Charles River Basin is hidden from a vessel downbound on the River. Although the entrance is 1,000 feet wide, sufficient speed has to be maintained to counteract the effects of the cross-currents and the wind at the entrance. Vessels in the ship channel, especially those upbound, must reduce speed when they approach this area on a flood tide and must always be on the alert for signals and signs of ships leaving the Basins.

In the western part of the harbour the River widens from half a mile to about a mile off Wolfe's Cove. In the south side of this sector lies the anchorage area for the harbour of Quebec, the upstream limit being a line across the River just past Wolfe's Cove. At times, the anchorage is crowded with large "lakers" awaiting their turn to unload at the grain elevators. These long ships need wide swinging room and sometimes lie crosswise in the River under the influence of tide and wind. Stern anchors are never used there. Although they are anchored to the eastward of the centre line of the channel and in the south part of the River, they may present a problem, especially at night and during poor visibility. The anchorage area is more congested during the fall when large lakers and foreign vessels are awaiting berths.

The anchorage is exposed to easterly winds and on occasion the pilots board anchored vessels to keep a safety watch. It is known that in this area many vessels have dragged their anchors over a long distance.

Vessels may also be anchored just outside the eastern limit of the harbour off La Martinière at the explosive anchorage, or a vessel going to dry dock might anchor in the south part of the channel, just off the Champlain Dry Dock, i.e., off buoy 87½ B. A ship could anchor almost anywhere in case of emergency, but there would be considerable risk of damaging the submarine cables which lie across the River downstream from the anchorage area limits.

The tide in itself presents no serious problem, except for the inner Princess Louise Basin which is tidal. Elsewhere, there is deep water at the wharves to accommodate vessels at any stage of the tide. The currents created by the tide present the most serious problem and, under certain conditions, render manœuvring and berthing very difficult if not impossible.

Soundings are taken every spring in areas where obstacles to navigation are most likely to be found and the results are made available to all concerned. Some sedimentation occurs at the Anse au Foulon terminal and some silting at the entrance to the St. Charles River. These areas are dredged to a depth of 37 or 38 feet at low water and capital dredging and improvements are being carried out in the St. Charles River Basin so that vessels will have more water and more room to manœuvre.

Counter currents caused by the contour of the land and the position of various wharves are often experienced in the harbour near the shore. In addition, some tidal currents do not coincide with the rise and fall of the tide, e.g., in some areas ebb tide begins up to an hour and a half before high water.

The areas most affected are the northeast end of the harbour, i.e., the deep water wharves in Princess Louise Basin and the St. Charles River estuary, and the Irving Oil wharf situated at Sillery, in the northwest part of the harbour.



Wolfe's Cove Terminal does not present any unusual difficulties regarding berthing. It is situated in a rather sheltered area which does not bear the brunt of the tidal currents, either flood or ebb, and there is also ample sea room to manoeuvre.

The Irving Oil wharf at Sillery is a special case by itself. Its limitations are caused by a combination of exposure to currents and River traffic, and lack of normal berthing facilities adequate for its requirements. The berth is situated at Pointe à Puiseaux (Sillery), which extends into the stream and, therefore, is exposed to the strong tidal currents. When manoeuvring, there is always a certain amount of danger involved because it lies about one mile below the Quebec Bridge in the narrowest part of the harbour at the edge of the channel. Careful choice must be made of time, wind and tide. The situation is further complicated by the fact that the berth is limited to the bare essentials required by the large tankers that have to be accommodated. Strictly speaking it is not a wharf, since it is only a floating raft attached to an old rebuilt jetty to which vessels are secured with the assistance of tow trucks from the shore, small boats and tugs. The floating wharf is about 80 x 30 feet—a very small area in relation to the large vessels that have to be berthed there, i.e., tankers of the *Irvinglen* type which are over 10,000 tons. The opinion was expressed that the facilities provided are inadequate for this type of vessel.

Furthermore, the berth is at the edge of the embankment, which is strewn with stones and boulders from the ruins of previous wharves on which the Irving wharf is built. The best time to berth is the last hour of the flood when there is enough water under keel to avoid the stones and boulders which obstruct the space needed for manoeuvring at low tide. At night, the difficulty is compounded by lack of visibility since the area is not lighted and the moving lights of the trucks used to haul the lines impair night vision. Berthing takes longer then and is more dangerous. However, the pilots have berthed ships at all states of the tide as well as at night, but they have recommended that berthing be restricted to daylight hours only and at the height of the flood tide.

The situation at the northeast end of the harbour is much more serious because that is where most of the deep water berths are situated and these, together with Wolfe's Cove Terminal, accommodate most of the ships that call at Quebec. The grain elevators are also located in that part of the harbour where the River narrows and begins to curve off Lauzon. Berths 18, 25 and 26, facing the River, bear the brunt of the flood tide but are sheltered to a certain extent from the effects of the ebb tide. For the same reason, the flood tide makes it more difficult to enter the St. Charles River estuary and Princess Louise Basin.



Navigational difficulties increase when the flood tide is accompanied by a northeasterly wind—the prevailing wind in the Quebec area which often reaches gale force. Berths 18, 25 and 26 and the entrance to both Basins are subjected to the combined effect of such winds and tides, and the piers on the west side of the St. Charles River Basin are fully exposed to the north east wind.

There is little argument about when ships should enter the Princess Louise Basin because there is general agreement that large ships can not possibly go in at certain times. The entrance is narrow and there is limited space inside. Hence, on a flood tide a vessel can not proceed fast enough to counteract the current at the entrance and still lose way without colliding with the piers at the far end of the Basin. For this reason, movements into the Basin are restricted to slack tide when there is little or no current and vessels may proceed at slow speed.

There is a difference of opinion about manoeuvring to berths 25 and 26 which face the River and berths 28 and 29 inside St. Charles Basin. If there is full flood tide and a gale force northeasterly wind, berthing is almost impossible and no pilot would dare attempt it, but when conditions are less severe the attitude of the pilots varies with the individual. This has become a bone of contention that will be studied later (pp. 322 and ff.).

Ships proceeding to the Lauzon dry docks must wait for the right tide and wind conditions to suit their type, draught, etc. Generally, these vessels are in a damaged condition and may be more difficult to manoeuvre.

### (iii) *Saguenay River*

The Saguenay River from its estuary to the harbour of Chicoutimi at the head of navigation is 70 miles long. It has deep water up to the head of Ha Ha Bay, where the Bagotville and Port Alfred wharves are situated, and as far as St. Fulgence from where a nine-mile long channel dredged through the shoals leads to Chicoutimi.

It much resembles the inlets and passages of the B.C. Coast. It is flanked by mountains rising more or less abruptly from the water which form precipitous headlands sometimes over 1,000 feet in height. In the first 50 miles, the water is almost as deep as the mountains are high. The depth reaches 100 fathoms on either side of the river, often within a few feet of the shore except for that small sector situated between the shoals at the entrance to the river where there is a bar over which there are eight to ten fathoms of water.

The main hazards at the entrance are fog and currents. Fog is quite frequent there, more so than elsewhere in the District, and may last for several days. A ship without efficient radar should not attempt to proceed under these conditions. The wise course is to proceed to a safe anchorage at the entrance to the river and wait for better weather.

The magnetic compass is not reliable in the Saguenay River because of the local magnetic disturbance as indicated by a warning on C.H.S. charts 1202 and 1203.

Another difficulty is caused by the currents at the entrance to the river, especially at the turn of the tide when they are in the making. The eddies make it difficult, even for an experienced pilot, to know what course to set. Much depends on prevailing winds in the preceding days and there are other factors such as the ship's speed, manoeuvrability and draught. The pilots reported that the information on the charts as to the direction and strength of the tidal currents at the various stages of the tide is quite accurate. While the currents are not dangerous, they are uncertain at the change of the tides and must be watched. When a ship enters the Saguenay, course must be adjusted by 10 to 15 degrees to counteract the set, and by even more when approaching Pointe Noire.

The channel is at its narrowest—about half a mile—between Pointe aux Vaches Reef and Lark Islet. Once this area has been passed, there is deep water and the current is more in the general direction of the river and parallel with the shore. It varies with the wind, the tide and the freshet but there is little variation in its direction. On a flood tide the current reaches five or six knots at the entrance to the Saguenay, diminishes throughout the course of the river and is quite weak in the upper reaches, but on the ebb tide the outward flow is strong throughout.

Vessels must at all times proceed on the starboard side of the mid-channel line in the Saguenay River, even when negotiating pronounced bends with or against a strong current. It was stated that it is a dangerous practice to cross over to the port side (as is done by many small vessels, particularly coasters) and this has been the cause of "close shaves". Because of the steep shoreline and the bends of the river it is difficult to see an approaching vessel and, if she is not on the proper side of the channel, a collision may result. An example of a dangerous area where course must be altered about 55 degrees is Pointe aux Crêpes. Pilot Dussault emphasized that there is very little room to manoeuvre in a narrow channel and that vessels must keep to their own side.

On the Saguenay there are several sharp, large alterations of course which must be made gradually because otherwise the strong current would take charge of the bow or the stern of the ship and turn her around. Some ships lack power to recover in this situation.

At night, the heavy shadows cast by the mountains limit visibility and the line of demarcation between land and water can not be distinguished. When it is very dark, ships must be almost completely blacked out so that landmarks and aids to navigation can be recognized. This procedure creates a hazard for other ships and should, therefore, be adopted for brief periods only.

As in British Columbia waters before the invention of radar, navigation by whistle echo was a common practice on the Saguenay during poor visibility. Since anchorage areas are both inadequate and widely separated, ships often have no choice but to proceed, and vessels without radar still use this method of navigating occasionally. They reduce speed, steer a course parallel to the shore and by timing the return of the whistle echo determine their position in the channel. The steep rocky shores of the Saguenay produce very good echoes.

When navigating at night it was also general practice to trail one anchor with about three shackles of cable, both as an extra precaution against grounding and as an indication of closing the shore.

Anchorage areas are few and scattered and are used only in cases of emergency. They are unsatisfactory on account of the depth of the water and the lack of sea room to manoeuvre.

The channel varies in width from six cables to two miles. In the upper reaches between St. Fulgence and Chicoutimi it extends for eight nautical miles as a dredged, curving, man-made channel 250 feet wide increasing to 350 feet on the curves, 20 feet deep at low water and lying between shoals and mud banks. There are seven different courses in the channel, all adequately marked by directional ranges and buoys.

Navigation in this stretch demands caution. Because there is so little room, passing another ship always requires special care and extreme caution must be used when passing a vessel moored at the buoys off one of the three oil installations at the edge of the channel. If a tanker is discharging, the moving vessel must go slow, thus reducing manoeuvrability and running the risk of losing control in the varied currents which are often swift and across the stream.

The charted depth in 1963 was only 16 feet but there is 27 feet in the Chicoutimi harbour basin, 16 feet at the Chicoutimi Oil Terminal, 15 feet at the Imperial Oil Marine Terminal, and 20 to 26 feet at the Irving Oil Terminal (all depths at low water). The St. Fulgence channel has since been deepened to 20 feet at lowest normal tide. Most tankers arrive drawing between 19 and 22 feet. They can proceed only at high tide (when sufficient depth of water is available) and generally when the tide begins to ebb so that there is a current against the bow of the ship to help her make fast to the mooring buoys. However, if the current is too strong the manoeuvre becomes too difficult and dangerous. Such assignments must be planned carefully before venturing into the channel.

It takes about 45 minutes from St. Fulgence to Chicoutimi at a speed of 8 to 11 knots. Once an average size ship enters the narrow channel she must keep going because there is no place to turn around and to anchor would be dangerous. In any event, there is usually insufficient water at low tide.



### (3) PRINCIPAL HARBOURS

From the pilotage point of view, the principal harbours of the Pilotage District of Quebec are Quebec, Ha Ha Bay and Chicoutimi.

#### (a) *Quebec Harbour*

In general terms it extends from Cap Rouge, just above the Quebec Bridge, to the western end of Île d'Orléans and includes 11½ miles of channel with maximum depths varying from 120 to 190 feet.

As seen earlier, the main installations in the harbour are located on the north shore, mostly in the city of Quebec. There are 25 deep water berths with approximately 35 feet of water at low tide. The north waterfront can be divided into three sectors: western, i.e., the Sillery wharves and Wolfe's Cove Terminal (Anse au Foulon); eastern, i.e., the Princess Louise Basin and the St. Charles River estuary; central, i.e., the wharves, mostly privately-owned, in between.

The harbour is under the control of the National Harbours Board. The extent of the Board's powers is stated in the National Harbours Board Act (1952 R.S.C. 187) which, *inter alia*, provides that the Board has no jurisdiction over, or control of, private property in the harbour, but has full control over the use of the Board's own property. On the other hand, the Board may make regulations regarding all matters that pertain to navigation in the harbour, the mooring, berthing and anchoring of vessels.

In fact, in addition to managing its waterfront properties and allocating berths at its wharves, the Board now exercises a form of traffic control in the harbour. Ships merely in transit may proceed without interference and without having to seek permission but must comply with certain regulations. The rule of the road was not altered but vessels are required to proceed at a speed not exceeding nine knots, to pass no closer than two cables from shore installations and special regulations have been issued to cover tows. Every ship wishing to use the facilities of the harbour must communicate with the Harbour Master's office in advance for instructions. There is no longer direct radio contact between ships and the Harbour Master's office. A system of this kind that had recently been set up when the Commission held its hearings in 1963 has since been discontinued with the establishment of the Marine Traffic Control System (p. 180). The system is now used to relay such requests and instructions for vessels with V.H.F. radiotelephone facilities. Other vessels must seek instructions by RT through the coast radio stations (Ex. 1461(i)).

Similarly, other movements and manoeuvring inside the harbour (except merely transiting) must have permission from the Harbour Master, obtained at the latest 15 minutes prior to the movement. If the contemplated move is delayed for any reason, permission must be obtained again. The completion of the move must be reported to the Harbour Master. This applies to all movements whether or not their point of origin or their destination is a



privately-owned wharf. The anchorage ground has been divided into ten anchorage positions which are allocated by the Harbour Master when he gives a vessel permission to anchor. In case of congestion in the anchorage area vessels are ordered to anchor before entering the harbour limits as near as possible to the south shore: downbound vessels anchor either off Îlets Dombourg, some eight miles upstream, or in the St. Nicolas cut, about one mile upstream, and upbound vessels anchor either at La Martinière or at St. Jean, Île d'Orléans (Ex.1461(i)). Vessels proceeding to or from areas where visibility is impeded, i.e., Princess Louise Basin and the St. Charles River estuary, are requested to give the prescribed signal, two prolonged blasts. Special provisions also deal with vessels carrying explosives. In addition, the harbour authorities control shore-based aids to navigation.

As a complement, in order to enable the National Harbours Board to discharge its duties, it is authorized to use reasonable force to assure that the by-laws are observed, especially those affecting safe navigation. For instance, the Board could take over any vessel if the Master refused to comply with the Harbour Master's orders and if it was thought that he would endanger shipping. The Harbour Master might then hire a pilot to take charge of the navigation of the vessel and also might obtain the assistance of the necessary tugs, all at the expense of the vessel concerned.

The pilots complained that they had had very little cooperation from the harbour authorities prior to 1960. The main point of contention was the installation of a proper communications system to indicate the movements of vessels in or out of Princess Louise Basin or the St. Charles River estuary. The pilots contended that the whistle signal which vessels are required to give is not sufficient because, for various reasons, it might pass unnoticed. For this reason, the pilots of upbound vessels have adopted the habit of giving a security warning by V.H.F. radiotelephone in addition to reducing speed and listening for the whistle. This is only partly effective since all vessels are not as yet fitted with V.H.F. equipment.

The pilots had repeatedly requested the installation at Pointe à Carcy of a visual signal that would indicate that such a movement was in progress. A signal of this kind was finally installed, but it turned out that at night the light signal was lost against the background city lights and the pilots recommended that it should be replaced by something that would attract attention, e.g., a quick flashing light. When the port authorities refused this request the pilots wrote to them in 1953 stating that they did not want to shoulder the responsibility for future accidents (Ex. 659).

Improved traffic control in the harbour since the Commission's hearings has reduced the danger because no vessel is permitted to proceed from her berth unless clearance has been obtained and this is granted only when it is safe to depart. Other vessels in the vicinity are also warned by the Quebec control centre.

Since 1960, however, communications and co-operation between pilots and harbour authorities have improved. The Harbour Master informed the Commission that he was trying to achieve even greater collaboration by holding joint meetings of pilots and harbour authorities to study the problems of navigation and movements in the harbour. He has also arranged for the apprentice pilots to spend a period in his office to get acquainted with the functioning of the harbour.

During the summer of 1962, representatives of the Quebec and Montreal Pilots' Corporations together with the Quebec Supervisor of Pilots met with the Director of the harbour of Quebec and the Harbour Master to discuss various harbour problems with the aim of making improvements. One problem was the numbering of the berths so that a pilot or a Master would know exactly where to go. Previously, as a result of inexact information a ship could be berthed some 25 or 30 feet away from where she was assigned causing unnecessary delay to correct the situation. Now, the berths are numbered and there is no danger of confusion. There was also the situation created when large tankers were lightened at the Quebec anchorage in the midst of both river and harbour traffic. It was suggested that this was a dangerous procedure that should be conducted outside the harbour limits where the population is not so dense and that, in any event, tankers and ships with explosives should never anchor within the harbour limits. The pilots recommended that upper lakers which were not ready to berth for 36 hours should be similarly dealt with in order not to congest the harbour anchorage area. They also asked that the Pointe à Carcy wharf be left completely unoccupied when large vessels have to manoeuvre to enter the basin, and that the anchorage areas be enlarged and numbered. Both these requests have since been implemented (Ex. 1461(i)).

Their main recommendation was that the traffic in the harbour of Quebec be effectively controlled by the Harbour Master through a radiotelephone system (Ex. 688, Ex. 580). This important recommendation was implemented later. In May 1963, the Harbour Master was provided with a radiotelephone working on a V.H.F. band with a range of about 10 miles, and the Harbour By-laws were amended to require all vessels entering or transiting the harbour limits with or without a pilot to report to the Harbour Master for his instructions, whether they wish to anchor, to berth or merely to transit. The harbour authorities had hoped to solve the problems which arise in the more dangerous areas of the harbour, e.g., the entrance to Princess Louise Basin and the St. Charles River, with a traffic control of this kind, and also to facilitate movements to and from these places and other berths and anchorages without vessels being impeded by other traffic. Through his traffic control the Harbour Master, being conversant with the movements of other vessels in the harbour, could give the necessary information and orders. The ship-to-harbour radio communication was also to help pilots and Mas-

ters by providing them advance information whether a berth was available, and, if so, which one so that they could proceed without delay to their assigned berth, or go to anchor, and by enabling them to obtain as much information as possible about the situation in the harbour so that they could plan their course of action, such as deciding whether tugs would be necessary, and, if so, to make arrangements for their availability upon arrival.

On November 18, 1965, the Harbour Master reported that up to that time the system had worked satisfactorily, despite a few violations attributed mainly to Masters who were still not used to the new procedure and also because many vessels still do not possess a V.H.F. radiotelephone. He added that the pilots, especially the senior ones, took rather a long time to adapt themselves to the routine but he believed that now they all acknowledged the necessity for such a control. He admitted, however, that the equipment he had at his disposal did not permit overall control but, with the experience gained, he hoped it could be achieved.

In view of the short range of the equipment and the inter-relation between harbour and river navigation problems, the Harbour Master had hoped for the integration of all the various services of shipping information, radio communication and traffic control, thus making it possible to centralize data to co-ordinate, improve and standardize the service and, at the same time, contribute to the safety of navigation (Ex. 1461(i)).

As seen earlier, the Harbour Master's suggestion has now become a reality. Vessels with V.H.F. radiotelephone may now communicate with the Harbour Master throughout the Marine Traffic Control System, i.e., from Sept-Iles to Montreal. The Harbour Master exercises through the system the same control as before, except for ships merely in transit that no longer require his instructions. Pilots may now obtain from the Control Centre up-to-the-minute information on weather and traffic conditions in the harbour and through the system are allowed to make the necessary arrangements for berthing (pp. 180 and ff.).

In harmony with the programme of greater co-operation with the pilots, the Harbour Master has employed two apprentice pilots as relief Harbour Masters since 1963, and it is planned that all future pilots should have the benefit of a period with the Harbour Master before they are licensed, so that they may become thoroughly conversant with the problems and procedures of the harbour (Ex. 1461(i)). On March 31, 1969, he reported that 29 pilot apprentices have so served with him, of whom 16 now hold a pilot's licence (Ex. 1461(i)).

(b) *Ha Ha Bay Harbour*

This harbour is a public harbour administered by the Department of Transport and under the direction of a Harbour Master. It is situated at the head of the deep water of the Saguenay River, about 70 miles from its



entrance, and includes the Bagotville and Grande Baie wharves and the Port Alfred Terminal (Exs. 511 and 1464(i)).

At Grande Baie, there is a Department of Transport wharf which can accommodate light draught vessels only and, therefore, is not used by ocean-going vessels. At Bagotville, the Department maintains another public wharf with deep water facilities but it is very seldom used by ocean-going ships except when they need repairs. This wharf, however, is regularly used by coastal traders, *inter alia*, Canada Steamship Lines vessels.

The Port Alfred Terminal is that section of the Ha Ha Bay harbour where the facilities of Saguenay Terminals Ltd. are located, i.e., two finger piers, Powell Wharf and Duncan Wharf, which provide seven berths (Ex. 604) and accommodate most of the ocean-going traffic plying the Saguenay River.

These have private berthing signals that are used to direct ships. They are published in a pamphlet. The system is working well and it has been improved upon from time to time following suggestions received, *inter alia*, from pilots. Saguenay Terminals Ltd. do not maintain any floating aids because the great depth of water throughout the Bay makes them unnecessary.

Tugs are available. In 1963, two very powerful tugs belonging to Saguenay Terminals Ltd. were in use and the pilots reported that they were very suitable for large ships. These tugs are equipped with radiotelephones, which are regularly used, but signals are also used, mouth whistle for the forward tug and ship's whistle for the after tug.

The only ships that come to these berths without pilots are small coastal vessels and lakers up to about 300 feet in length. Saguenay Terminals Ltd. have never requested these ships to employ pilots because their Masters are quite used to berthing their own vessels. There was an attempt to make the use of tugs compulsory, but the requirement was withdrawn after a few weeks. The charge was \$150 per tug. Two tugs were required if the vessel was more than 315 feet in length. In 1963, the price being charged for tug service was \$175 per tug. A ship 10,000 tons and over normally requires two. If one of the berths is occupied or if there are adverse weather conditions, whether or not tugs are used, the practice is to trail anchor while berthing, but when the adjacent berths are empty and there are no special adverse conditions the vessel may be berthed without using the anchor. Berthing is difficult when there is a northeasterly wind.

Port Alfred is a Port of Entry provided with the necessary services. Saguenay Terminals Ltd. statistics for 1962 show that 450 vessels used their facilities, that there was a steady decrease over the four preceding years and that the peak was reached in 1955 when they accommodated over 750 ships. They handle a considerable number of lake vessels but, on the other hand, seagoing vessels are much larger and 10,000-ton Liberty ships are now disappearing and being replaced by new, modern ships up to 18,000 tons.



The number of ships has decreased but the aggregate tonnage has remained unchanged. The term *ship* in these statistics means a movement of cargo; therefore, a vessel coming in loaded with bauxite and leaving with another cargo is shown as two ships. Since they take into account only vessels with cargoes destined to Saguenay Terminals Ltd., the complete shipping figures for Port Alfred would be greater because a large number of vessels carry pulpwood, etc. for Consolidated Bathurst Paper Co.

(c) *Chicoutimi Harbour*

Chicoutimi is the only harbour in the Quebec Pilotage District, except Quebec itself, that is controlled and managed by the National Harbours Board. Before it was taken over by the National Harbours Board in 1936 it was administered by a Commission under a separate Federal Act.

The seaward limit of the harbour is situated in deep water about 25 miles downstream from Chicoutimi, four and a half sea miles below the entrance to the dredged channel, i.e., a line drawn from the tip of Cape West on the southwest side of the river to Anse à Pelletier on the northeast side, but excluding Ha Ha Bay. It extends upstream to high tide mark about four miles beyond the Chicoutimi swing bridge. For practical purposes, however, the harbour ends at the bridge since the channel upstream is very narrow and crooked and is not maintained.

The entrance to the harbour proper is the winding St. Fulgence channel which is dredged throughout its eight nautical miles. At three places on the west side, in enlargements specially dug in the mud bank for that purpose, there are three tanker berthing installations consisting of mooring buoys to which tankers make fast to discharge petroleum products by pipe line. These buoys are located in the middle of straight stretches so that passing vessels do not have to manoeuvre when they meet tankers berthed just at the edge of the channel. The first of these installations is Chicoutimi Oil Terminal owned by National Harbours Board and situated about midway along the channel. The Imperial Oil Marine Terminal and the Irving Oil Terminal are closer to the city and about half a mile apart. In Chicoutimi harbour proper, there is a 2600-foot wharf with 27 feet of water at low tide, which can accommodate five ships of about 500 feet in length. All the installations in the harbour, except the Imperial Oil Marine Terminal and Irving Oil Terminal, belong to the National Harbours Board. There is a 750-foot wide turning basin alongside the main wharf.

There is no Harbour Master. Control is exercised by the Port Manager who, *inter alia*, directs ship movements within the harbour, assigns berths (except at the two privately-owned installations) and supervises aids to navigation.

Ships in the harbour generally do not need tugs but, if assistance is desired, tugs are available from Port Alfred. Ship movements are occasional-

ly delayed by the tide since the availability of water governs the entry of deep-draught vessels into the approach channel.

The Commission was informed that there had been very little damage to the harbour installations for six years. From 1957 to 1960, three accidents, one in 1958 and two in 1960, caused damages amounting to \$2,149.26 in all. Their cause was a particular manoeuvre that has to be made when leaving the wharf. The pilots use the current to turn around while the ship is still made fast by stern lines. The lines must be released at the very last moment and the engines take over. There is no time to waste and, if a line is not let go, a man has to be on the spot ready to cut it.

The speed limit as prescribed by the National Harbours Board by-laws is seven knots within two miles of Board property. The harbour authorities have no police to control speed. Infractions are reported by residents along the river. When complaints are received the only action taken by the harbour authorities has been to bring the matter to the attention of the Master and the pilot concerned.

Silting and sedimentation occur in the channel but very little in the turning basin. The channel is the responsibility of the St. Lawrence Ship Channel Branch of the Department of Transport.

The size of vessels calling at Chicoutimi is governed by the features of the approach channel, especially its limited depth and its width at sharp bends. The maximum permissible draught was 25 feet spring tides when the depth at low water was 16 feet; vessels with a 29-foot draught may now be accommodated at spring tides since the channel depth was brought to 20 feet. Consideration has to be given to under keel clearance and to the change in water level caused by the tide while the channel is being transited. The space available to negotiate the sharp bends determines the maximum length of any vessel which can proceed through the Saguenay, e.g., in October 1961, the pilots informed the Pilotage Authority that *Canuk Trader*, a 440-foot Park ship, could not be brought up to Chicoutimi safely to take on a cargo of some 3,000 tons of scrap metal. In their reply to the Authority the Board of Directors of the Pilots' Corporation stated that, since the channel was only 250 feet in width and 350 feet at the bends, it was impossible to pilot such a ship in complete safety. This incident is studied later (p. 321).

Oil tankers account for 80 to 90 per cent of the Chicoutimi traffic. Little cargo is shipped from Chicoutimi except small quantities of scrap metal once every two years, such as the incident of the *Canuk Trader* referred to previously.

Tankers arrive loaded and depart light. When they are too deeply laden they have to anchor outside the channel and discharge into a lighter that shuttles between the tanker and the oil terminal concerned. It was on such an occasion in 1962 that pilot V. Lafleur stayed on board the lighter *Irvingwood*

4½ days from the time he boarded the vessel and disembarked at Les Escoumins. He brought the small tanker to Chicoutimi and then performed three round trips between the Irving Oil Terminal and the large tanker *Irvingdale*, which was anchored off St. Fulgence (Ex. 735) (vide analysis of pilot J. F. A. Vézina's workload, month of Sept. 1962, Appendix D).

Although most of the ships that call at Chicoutimi harbour are tankers, they are not necessarily regular traders. Some, however, make fairly frequent visits. Pilot Dussault stated that their Masters could become proficient pilots if they put their minds to it, remained on the bridge and paid proper attention. He has found that they are very co-operative but also that none of them has really tried to learn the channels. When they have a pilot aboard they are neither concerned nor worried about leading marks and navigation in the channel.

(d) *Other Harbours*

The harbours of Rimouski, Rivière du Loup and Forestville are of some importance but much less than those discussed above. The traffic to and from Rivière du Loup consists mostly of Irving Oil tankers, one of which employs a pilot regularly. At the outer end of the wharf there is only 14 feet at low water and, therefore, a ship with greater draught has to anchor at low tide. Another problem is that the wharf is exposed to the prevailing winds.

Pilots may be occasionally required to call at small intermediate ports like St. Siméon, Cape Dogs, Cape Salmon, Cap à l'Aigle and St. Jean, Ile d'Orléans. This is particularly true of small tankers or small foreign vessels which call at these ports to load live eels, and of tugs towing barges and scows. On the North Shore there are also many wharves where small vessels may stop.

(4) MARITIME AND PILOTAGE TRAFFIC

Maritime traffic in Quebec District waters consists mainly of:

- (a) ocean-going vessels proceeding to or from Quebec, or in transit to or from Montreal and Great Lakes ports *via* the Seaway;
- (b) lake vessels proceeding to or from Quebec, or in transit to or from North shore ports such as Port Cartier, Sept-Iles and Baie Comeau, and Lower Gulf ports;
- (c) smaller coastal vessels and wooden schooners, the latter progressively being replaced by larger steel-hulled vessels;
- (d) a small number of barges and scows used in dredging operations.

Very large ocean-going vessels proceed up to Quebec; the controlling depth at low water in the shallowest part of the North Channel (North Traverse-Cape Gribane area) is 30 feet, but at high tide the navigable depth is at least 45 feet. These large vessels, however, can not proceed to Montreal since, with no tide above Three Rivers, the maximum permissible draught is



limited by the depth of the dredged channel, i.e., 35 feet. The maximum dimensions of the lake vessels are determined by the dimensions of the locks of the Seaway. The modern lakers which trade into the Gulf range up to 730 feet in length and over 75 feet in width.

It is difficult to obtain an accurate picture of the overall traffic since the greater part of it is composed of ships in transit, while D.B.S. statistics are computed on the basis of arrivals at ports. However, pilotage statistics provide a reasonably good picture of the significant traffic, i.e., excluding small vessels, since the relative exemptions to the compulsory payment of pilotage dues have been considerably reduced after being completely withdrawn for large vessels (pp. 20 and 21), and since very few non-exempt vessels dispense with pilots. The largest number of non-exempt ships not employing pilots occurred in 1967, with 170 vessels accounting for 2 per cent of pilotage traffic (for further statistics on non-exempt ships dispensing with pilots, vide p. 209).

The following table shows for the period 1955-1968, on an annual basis, the total number of trips effected by pilots, the average NRT per ship piloted together with their aggregate NRT, and for each figure the per cent increase or decrease over 1955.

Year	Aggregate NRT of Vessels Paying Pilotage Dues		Trips (vessel) with Pilots		Average NRT of Vessels Piloted	
	Tonnage*	% increase or decrease since 1955	Number†	% increase since 1955	Tonnage	% increase or decrease since 1955
1955.....	18,792,633	0.0	5,647	0.0	3,327.9	0.0
1956.....	21,604,920	15.0	6,114	8.3	3,533.7	6.2
1957.....	18,538,779	-1.4	5,951	5.4	3,115.2	-3.6
1958.....	19,818,438	5.5	6,172	9.3	3,211.0	-6.5
1959.....	27,709,483	47.5	7,298	29.2	3,796.9	14.1
1960.....	29,751,584	58.3	7,184	27.2	4,141.4	24.4
1961.....	31,834,299	69.4	7,229	28.0	4,403.7	32.3
1962.....	33,239,991	76.9	7,258	28.5	4,579.8	37.6
1963.....	35,838,124	90.7	7,199	27.5	4,978.2	49.6
1964.....	41,731,273	122.1	8,117	43.7	5,141.2	54.5
1965.....	45,520,351	142.2	8,515	50.8	5,345.9	60.6
1966.....	49,413,904	162.9	8,812	56.0	5,607.6	68.5
1967.....	49,345,616	162.6	8,415	49.0	5,864.0	76.2
1968.....	49,359,531	162.7	8,393	48.6	5,881.0	76.7

SOURCES: \*Exs. 534(a) and 589.

†Table p. 116.

This table shows that pilotage traffic has been constantly on the increase since 1959 both in number and size of ships. The combined effect has resulted in a 162.7 per cent increase over 1955 (of which 157.2% since 1958) in the aggregate tonnage of ships paying pilotage dues.



## COMPARATIVE STATISTICS FOR ARRIVALS OF VESSELS IN THE

	1959		1960		1961		1962	
	No.	Average N.R.T.	No.	Average N.R.T.	No.	Average N.R.T.	No.	Average N.R.T.
<b>QUEBEC HARBOUR:</b>								
D.B.S.—Vessels of 250 N.R.T. and over.....	2,215	2,802.9	2,258	2,800.0	2,169	2,990.2	1,985	3,134.3
D.B.S.—All vessels.....	2,700	2,325.0	2,731	2,336.9	2,723	2,415.8	2,523	2,497.9
N.H.B.—All vessels.....	4,315	1,780.3	4,452	1,740.3	4,361	1,840.1	4,043	2,015.8
<b>HA HA BAY (Port Alfred and Bagotville):</b>								
D.B.S.—Vessels of 250 N.R.T. and over.....	779	2,339.5	752	2,649.3	682	2,582.0	660	2,523.3
D.B.S.—All vessels.....	1,134	1,634.8	1,155	1,756.2	1,144	1,581.5	1,133	1,511.4
<b>RIMOUSKI:</b>								
D.B.S.—Vessels of 250 N.R.T. and over.....	334	727.8	332	742.4	279	837.7	595	1,868.7
D.B.S.—All vessels.....	774	413.7	1,163	346.3	629	460.8	784	1,460.4
<b>FORESTVILLE:</b>								
D.B.S.—Vessels of 250 N.R.T. and over.....	381	1,548.5	492	1,318.7	468	1,429.5	224	2,136.0
D.B.S.—All vessels.....	616	1,027.7	694	1,005.1	599	1,159.2	278	1,746.4
<b>CHICOUTIMI:</b>								
D.B.S.—Vessels of 250 N.R.T. and over.....	110	1,713.7	104	1,738.7	126	1,694.5	132	1,733.6
D.B.S.—All vessels.....	185	1,058.0	159	1,172.6	180	1,216.8	171	1,363.4
N.H.B.—All vessels.....	207	1,089.5	169	1,137.2	184	1,240.8	171	1,374.3
<b>RIVIÈRE-DU-LOUP:</b>								
D.B.S.—Vessels of 250 N.R.T. and over.....	11	1,595.2	11	1,670.9	9	1,618.7	13	2,240.0
D.B.S.—All vessels.....	116	228.6	49	438.7	75	272.6	60	562.6

SOURCES: Exs. 1483, 15 (Parts II and III) and 479.

Most of the increase in the *number of ships* can be attributed to the opening of the St. Lawrence Seaway. The beginning of the traffic increase coincides with the opening of the Seaway, as further confirmed by D.B.S. and N.H.B. arrival statistics (vide table, pp. 150-151) which show from 1959 to 1967 a general decrease in the number of ships calling at the main ports in the District, especially Quebec.

The constant increase in the average size of ships is due to the general trend to larger vessels and, in the District of Quebec, to the gradual disappearance of schooners. This latter factor is especially apparent from the D.B.S. and N.H.B. statistics for Quebec and Chicoutimi (table pp. 150-151). But the most significant single factor is again the Seaway. In the years after it opened, the former small lakera were gradually replaced by larger lake vessels designed to make maximum use of the available space in its much larger locks. During the five years 1959-1963, the number of ships remains fairly stable, but their average size shows a constant, spectacular increase.

## MAIN QUEBEC DISTRICT PORTS DURING THE YEARS 1959-1967

1963		1964		1965		1966		1967		% Increase or Decrease 1959-1967	
No.	Average N.R.T.	No.	Average N.R.T.	No.	Average N.R.T.	No.	Average N.R.T.	No.	Average N.R.T.	No.	Average N.R.T.
1,824	3,442.6	1,847	3,398.9	1,882	3,402.8	1,722	3,517.6	1,642	3,833.9	-25.9	36.8
2,201	2,878.6	2,228	2,844.1	2,164	2,921.5	2,055	2,930.7	1,958	3,238.7	-27.5	39.3
3,606	2,202.5	3,469	2,231.8	3,151	2,498.3	2,818	2,425.1	2,706	2,810.1	-37.3	57.8
650	2,546.9	677	2,934.9	680	2,816.6	737	2,897.8	676	3,103.5	-13.2	32.7
1,135	1,499.5	1,090	1,860.7	1,034	1,885.8	1,348	1,620.3	1,162	1,841.5	2.5	12.6
791	2,069.2	653	2,094.5	693	2,109.6	701	2,128.5	295	1,820.4	-11.7	150.1
940	1,765.2	911	1,551.0	858	1,745.6	890	1,714.1	379	1,452.2	-51.0	251.0
292	2,103.0	294	2,178.7	279	2,169.0	274	2,185.3	228	2,209.1	-40.2	42.7
358	1,734.2	379	1,711.6	290	2,092.9	329	1,837.0	231	2,182.0	-62.5	112.3
141	1,771.5	142	2,112.5	136	1,986.5	136	2,138.5	134	2,142.8	21.8	25.0
164	1,540.6	157	1,921.2	160	1,715.9	194	1,560.2	145	1,989.3	-21.6	88.0
162	1,506.2	156	1,803.3	155	1,806.6	168	1,571.4	133	2,070.8	-35.7	90.1
7	1,591.6	14	1,963.5	16	1,864.8	30	2,204.3	23	2,712.1	109.1	70.0
52	305.7	91	385.7	113	355.6	130	589.7	142	542.5	22.4	23.7

The table on pp. 150-151 is compiled from D.B.S. statistics of arrivals at the main harbours and ports in the District on a yearly basis for the period 1959-1967 inclusive. The *all vessels* figure refers to all arrivals at the ports excluding, however, such small vessels as fishing vessels, tugs and vessels of less than 15 NRT, and naval vessels. This figure is compared with the special statistics prepared by D.B.S. for this Commission referring to arrivals of vessels of 250 NRT and over, i.e., vessels more likely to take a pilot, in order to show the incidence of small vessels calling at these ports. The next figure shows the average NRT per vessel in each grouping. For the two National Harbours Board ports of Quebec and Chicoutimi, the N.H.B. statistics of arrivals of commercial vessels have been added. The main difference between the *all vessels* D.B.S. figures is that the N.H.B. counts all arrivals (except naval vessels) including fishing and small vessels under 15 NRT. This explains the greater number of arrivals and the smaller average tonnage figures.

The number of ships calling at Quebec has decreased considerably from year to year. The decrease in recent years may be accounted for in part by the discontinuance of the twice daily ferry service that was maintained during the summer months by the Canada Steamship Lines between Montreal, Quebec, Murray Bay, Tadoussac and Port Alfred. By contrast, however, the average size of vessels has substantially increased over the nine-year period. A comparison between D.B.S. and N.H.B. statistics in the table pp. 150-151, and the N.H.B. statistics in the following table clearly shows that the small schooners that formerly visited the harbour of Quebec in large numbers are progressively disappearing and are being replaced by larger vessels, while the aggregate tonnage of both ocean-going vessels and coastal and inland vessels has remained approximately the same over the nine-year period.

	1959	%	1967	%
<i>Arrivals:</i>				
Ocean-going vessels.....	1,002	23.2	963	35.6
Coastal and inland vessels.....	3,313	76.8	1,743	64.4
Total.....	4,315	100.	2,706	100.
<i>Aggregate NRT</i>				
Ocean-going vessels.....	5,229,538	68.1	5,260,000	69.2
Coastal and inland vessels.....	2,452,335	31.9	2,344,000	30.8
Total.....	7,681,873	100.	7,604,000	100.

Baie des Ha Ha (Ha Ha Bay) is the second harbour in importance in the District. The traffic and the average size of vessels have remained substantially the same throughout the years, despite the discontinuance of the C.S.L. ferry service. There has been a slight increase in the number of small vessels during recent years.

The increase in the number of larger vessels and the average size of vessels calling at Chicoutimi can no doubt be attributed to the deepening of the St. Fulgence Channel from 16 feet to 20 feet.

### *Speed Limit*

Except in the two National Harbours Board harbours, Quebec and Chicoutimi, there is no fixed speed limit throughout the District. The maximum permissible speed under prevailing conditions such as weather conditions, the nature of the channel, the extent of traffic, the particulars of the ship and state of the tide are left to the good judgment of the Master and the pilot. However, despite repeated warnings, excessive speed remains the major single threat to safety of navigation.

Rule 16 of the Regulations for Preventing Collisions at Sea requires that ships proceeding in adverse weather conditions which restrict visibility "go at a moderate speed having careful regard to the existing circumstances and conditions"; and that a ship "hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained, shall, so far as circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over".

In the four of the five major casualties involving pilots which were investigated by a Court of Formal Investigation in recent years (pp. 367 and ff.), it was found that violation of this important rule had been a main contributory factor.

The pilot having the conduct of a ship (subsec. 2(64) C.S.A.), i.e., having "the charge" of her (subsec. 368(c) C.S.A.), must observe these rules. However, since the application of rule 16 does not pertain to local knowledge but to navigation in general, good seamanship and prudence, the Master and the officer of the watch are equally responsible for its application when there is a pilot on board, and are equally to blame when it is violated.

By Notice to Mariners 234, dated April 15, 1966, the Department of Transport brought to the attention of pilots and other mariners the findings of the judgments then rendered and, furthermore, publicity was given on the matter in a Department of Transport press release issued April 20, 1966, which was carried in most newspapers (Ex. 1466(g)). The section of the Notice to Mariners dealing with speed reads as follows:

"234. St. Lawrence River—Les Escoumins to Montreal—Excessive speed in poor visibility and in confined waters.

The results of Formal Inquiries into several recent serious collisions in the St. Lawrence River show that some ships are proceeding at far more than a moderate rate of speed in poor visibility and also in dredged channels where "bank effect" may make them hard to handle.

Shipmasters and Pilots navigating the St. Lawrence should take particular notice of these judgments which indicate that the rules of good seamanship are being ignored.

Regulations which have the specific intention of promoting safety at sea are being violated by ships which do not slow down to a moderate speed in difficult situations. In particular, attention is drawn to the following: (here rule 16(a) is reproduced)."

Despite these warnings, there are still violations of this basic rule of prudence. In the fifth case, the grounding of S.S. *Exiria*, the court found that the pilot and the Master had violated rule 16 (although it was not a contributory factor to the grounding) in proceeding at full speed ahead from Les Escoumins up the North Channel in fog, neither sounding the fog signal nor making use of shipborne aids to navigation, except a casual use of radar.



The St. Lawrence River Navigation Safety Regulations, Notices to Mariners and Notices to Shipping provide other rules regarding speed in special cases. These are summed up as follows in the Marine Traffic Control pamphlet:

"Transiting vessels shall regulate their speed as normal prudence would require:—

- (a) when approaching curves in dredged channels to lessen bank suction effect;
- (b) to avoid excessive "draw off" and consequent follow through wash, which may endanger life or create damage to property;
- (c) upon approaching vessels, barges, equipment engaged in dredging, salvage, buoywork, construction, or other circumstances when normal practice of seamen would require same;
- (d) to comply with any speed restrictions required by the St. Lawrence Ship Channel Division to permit formation and maintain in position batture and lake ice outside of channel, thereby reducing ice jam blockages."

Despite repeated warnings, many ships do not heed these notices and their excessive speed damages property, impedes work on the River and endangers the lives of the workers. Frequently, it is impossible to identify the offenders but they are prosecuted if this can be done.

There was a great deal of trouble of this nature when the Prince Shoal Tower was being constructed. Notices to Shipping were issued but there were frequent violations and repeated complaints were made to the Pilotage Authority. The Corporation of Pilots co-operated by sending its members four bulletins on the matter requesting them to abide by the request for reduced speed (Ex. 688). In a bulletin dated July 18, 1962, the pilots were requested to adhere more strictly to the Notice to Mariners regarding speed where repairs to wharves and other works were being effected or when meeting a tow, adding that the Pilotage Authority contemplated taking disciplinary measures against the offenders. In a further bulletin dated August 24, 1962, the pilots were informed that a diver, working at Prince Shoal Light, had nearly been killed due to the excessive speed of vessels entering the Saguenay River or passing in the St. Lawrence River and that the Pilotage Authority had reported many complaints had been received of excessive speed there and at St. Joseph de la Rive wharf. Again the pilots were requested to reduce speed to nine knots, even if they were of the opinion that their ship did not create much wash. They were further informed that the Authority had threatened to bring the matter to the attention of the "Inquiry Commission" to show the lack of personal responsibility of some pilots.

On July 17, 1963, the pilots were informed that damage was done to the Prince Shoal Tower and they were again requested to reduce their speed to nine knots in that area, although a pilot might believe his ship did not create a dangerous surge. In a further bulletin dated August 2, 1963, the same request was made with regard to the Prince Shoal pier: divers were working under water around the caisson which was not apparent to passing ships. However, the swell created by these ships had been damaging the steel

sheet piling and had endangered the life of the divers working on the bottom, despite a Notice to Mariners issued May 31, 1963, which requested passing vessels to slow down. The same request was made for the vicinity of the *Tritonica* wreck where divers were also at work.

### (5) AIDS TO NAVIGATION

While the pilotage service in Canada is independent and operates under independent bodies called Pilotage Authorities, the Department of Transport retains overall responsibility for the safety of navigation and, hence, has a right to surveillance, although it can not interfere directly with pilotage matters (Part I, pp. 402 and ff.).

Charting, maintaining and improving navigable channels and supplying and erecting various aids to navigation were originally included in the responsibilities of the Pilotage Authorities, such as the Quebec Trinity House (p. 30). Soon, however, as the need for better and safer channels developed, considerable construction work had to be done and a network of aids had to be organized and maintained, the cost of which was beyond the means of Pilotage Authorities with their limited sources of revenue. Since it was in the public interest to provide safe access by water, the expenses involved were paid out of public funds and this field became a Government responsibility discharged by one of its departments, now the Department of Transport.

The Department of Transport (in addition to the direct and indirect assistance it provides the various pilotage services) discharges its responsibilities in a number of ways, *inter alia*:

- (a) examines and issues Certificates of Competency for Canadian marine officers and inspects and issues Certificates of Seaworthiness for Canadian vessels;
- (b) prescribes regulations for safe navigation, amending the rule of the road if necessary to meet local conditions;
- (c) maintains harbours, ports and berthing facilities where they are required in the public interest, either directly through its own Harbours and Property Division or indirectly through the National Harbours Board;
- (d) maintains and improves various ship channels; certain more important sections are the responsibility of divisions of the Department of Transport, such as the Canals Division and the St. Lawrence Ship Channel Division, or of a separate organization such as the St. Lawrence Seaway Authority;
- (e) directs the dredging, marine construction and repairs carried out by the Department of Public Works in areas other than named ship channels;

- (f) erects and maintains an elaborate system of aids to navigation, floating, fixed and electronic;
- (g) maintains and operates a fleet of ice-breakers, primarily to control flooding and the movement of ice but also to assist vessels endangered by ice;
- (h) issues Notices to Shipping and broadcasts information and warnings many of which are later published as Notices to Mariners;
- (i) since 1968, operates on the St. Lawrence River from Sept-Îles to Montreal a traffic and weather information service and a ship-to-harbour and ship-to-Pilotage Authority communication service through a reliable V.H.F. network called *Marine Traffic Control* (p. 180);
- (j) maintains an elaborate ice operation service providing up-to-the minute ice situations throughout possible routes along the Atlantic Coast, in the Gulf and River St. Lawrence as far as Montreal, and in Hudson Bay, plus ice-breaker assistance in certain circumstances (pp. 200 and ff.).

The Canadian Hydrographic Service of the Department of Energy, Mines and Resources prepares Canadian charts, publishes volumes of Sailing Directions and checks the Notices to Mariners which are issued by the Department of Transport.

In the Quebec District, ship channels are the responsibility of the Ship Channel Division of the Department of Transport. While an extensive programme of improvements is under way in the section between Quebec and Montreal, no capital improvements have been effected east of Quebec since the North Traverse was dredged in 1936 to make the North Channel the main route for shipping, and the final improvement to the channel near Madame Reef in 1947. The Department of Transport did not consider that additional modifications were justified. However, in the light of experience, particularly the series of accidents in 1963-64 and the new problems created by increasing use of the St. Lawrence during winter months, extensive studies are being carried out by the Ship Channel Division for further improvements in the North Channel.

The St. Lawrence Ship Channel Division is responsible for maintaining the charted depth in the channel in the St. Lawrence River and in the St. Fulgence Channel in the Saguenay River, and for keeping them free of obstructions. It has sweeps made at regular intervals and soundings taken, particularly at the opening of navigation but also whenever circumstances require.

The St. Lawrence Ship Channel Division dredges Wolfe's Cove at the request of the National Harbours Board and at its expense because it has the necessary equipment and personnel to make a survey, determine the amount



of material to be removed, do the required dredging and carry out a final sweep. There is considerable sedimentation in that area caused chiefly by tidal currents.

Additional dredging is done by the Department of Public Works at the request of either the port authorities or the Department of Transport in the approach channels and along Government wharves and privately owned wharves, with the proviso that the dredging costs must be paid by the owners.

The responsibility for establishing and maintaining aids to navigation (except radiotelecommunications) throughout the Pilotage District of Quebec lies with the District Marine Agent of the Department of Transport in Quebec City. His jurisdiction covers all navigable waters, including the Saguenay River, within an area extending from the western limits of the former Port of Quebec, i.e., from Portneuf Basin on the north shore and St. Croix on the south shore eastward as far as Natashquan, including Anticosti Island on the north shore, and on the south shore the New Brunswick coast, including Miscou Island as far as Shippegan.

Steady improvements are being made in the efficiency of aids to navigation, thus constantly increasing the safety of navigation on the River. These improvements become more necessary and important with the ever-changing types of vessels which differ greatly from those of ten or twenty years ago. Ships plying the River to-day are larger, speedier and in greater numbers.

Aids to navigation have increased during the course of the years both in number and in efficiency. All three lightships previously in service have disappeared and two have been replaced by fixed pillars which, in the opinion of the District Marine Agent, are more efficient than lightships.

The pilots felt that the North Channel system of aids is satisfactory, but arrangements in the South Channel should be improved. The District Marine Agent confirmed that the latter system of aids was not as elaborate as formerly because the South Channel was no longer the regular route. Some buoys had been removed and automatic lights had replaced watched lights. He believed that automatic lights are more efficient but the pilots did not share his confidence. They stated that, despite the automatic emergency back-up, range lights have occasionally failed; they also submitted that for night navigation essential buoys should be equipped with lights as they were before.

#### *(a) Proposals for Improving the Ship Channel*

The ship channel below Quebec City has not been improved since 1947 when the Madame Reef section was widened from 500 feet to 1,000 feet, thus providing the whole North Channel-North Traverse route with a minimum width of 1,000 feet.



Three proposals to improve the safety of navigation in the St. Lawrence River section of the District were placed before the Commission: (i) divide the channel into two separate lanes or tracks as was done in the St. Clair River between Lake Huron and Lake Erie; (ii) maintain and improve the South Channel; (iii) dredge the Middle Traverse to connect with the North Channel.

The pilots believe that proposal (i) is practicable below Goose Cape. In general, they already follow this procedure by choosing to pass south of Morin Shoal when downbound and north when upbound. They also had a gentleman's agreement that during periods of low visibility they would sail north of Red Islet upbound and south downbound. It is their opinion that it would be in the interest of safe navigation to make these lanes obligatory for all vessels and to have them included in the charts of the area. As seen earlier (p. 129), the two-lane proposal has been adopted for Red Islet but not Morin Shoal.

However, they believe that in narrow sections (like the Saguenay River, the South Channel and the western part of the North Channel) it is not feasible to have lanes because the channel is narrow and the currents are strong. Under these circumstances it would be dangerous to have parallel courses so close together.

Captain C. A. Bodensieck, then Assistant Operating Manager of Canada Steamship Lines, supported the pilots' point of view based on his personal experience in such places as the Coudres Passage.

In view of the constant and repeated efforts made by Dominion Marine Association to have separate lanes adopted, the pilots decided to give the proposal a trial. For this purpose and also in order to instruct the apprentice pilots, they traced ideal courses for upbound and downbound vessels on charts and experimented with them for a time. These efforts only convinced them further that the proposal, which theoretically appears a sound safety measure, is not practical and, in certain circumstances, may even be dangerous. The physical features of the channel, a ship's manoeuvrability and speed, the prevailing tidal conditions, currents and visibility (not to mention ice) often dictate an alternate course in the interest of safety (Ex. 1538(j)). The proposal was then abandoned.

If the South Channel were restored and maintained, the pilots do not see why it should not be used extensively since there is no difference in distance or in the influence of the currents on the length of trips. It would be an advantage—indeed a safety measure—if some traffic were diverted to it and it would be a definite advantage if both North and South Channels were made one-way routes.

Up to 1964, there had been no official request to re-open the South Channel. Mr. H. L. Land informed the Commission that it would require a

large amount of money for both capital and maintenance dredging to adapt it to modern traffic. It was estimated in 1963 that it would cost around six million dollars, at \$1 per cubic yard, to dredge it back to 30 feet.

In the Middle Traverse south of Ile aux Coudres, the proposed work would consist of opening a new channel which would allow vessels using the North Channel to by-pass Ile aux Coudres to the south. Furthermore, the Middle Traverse so modified and Coudres Passage could be used as two one-way lanes. There would also be an improvement as far as ice is concerned because the section by-passed between Goose Cape and Cap Maillard is the bottleneck for ice in the North Channel.

This could prove to be a very costly proposal for capital and maintenance dredging. The Ship Channel Branch of the Department of Transport has included it in its hydraulic study of the River, the purpose of which is to make the best use of available water and improve conditions in the River, bearing in mind ice conditions during the winter months.

In his report on the circumstances of the collision between S.S. *Leecliffe Hall* and M.V. *Apollonia*, Mr. Justice Smith made the following comment (Ex. 1457):

"The evidence presented in the course of this inquiry, and the one conducted in connection with the sinking of the *Tritonica* in 1963, as well as the advice of the Assessors, convince me that the dredging of a channel south of Île aux Coudres Passage to accommodate downbound traffic exclusively would do much to lessen, if not eliminate, presently existant hazards to navigation in this area and it is hoped that action in this direction will not be long delayed."

Pilot Dussault said that he would prefer to see the South Channel improved rather than the proposed improvements in the Middle Traverse because these would do nothing to remedy the existing situation in the narrow part of the western section, i.e., Cap Gribane to the west end of the North Traverse, while the South Channel would provide a longer lane for downbound traffic.

On May 8, 1969 (Ex. 1538(g)), the Department of Transport informed the Commission that for the time being the official stand regarding the project of reactivating the South Channel by dredging it to a normal depth was discontinued indefinitely, its limiting depth remaining at 17 feet L.N.T. For the time being, all efforts are concentrated on improving the 16-nautical mile stretch between Cap Gribane and St. Jean, Orleans Island (the western end of the North Traverse) which contains the only dredged channel along the North Channel and whose depth constitutes the controlling depth of the North Channel. Following a regular maintenance programme, 75 per cent of the Cap Gribane Reach and 30 per cent of the North Traverse Reach were deepened to 35 feet in 1968. It is expected that the remainder of the Cap Gribane Reach will be dredged to the same depth in 1969. When this maintenance work is completed, approximately nine nautical miles of the dredged portion of the North Channel will remain for the time being at a depth of 30 feet L.N.T.

A feasibility study is now being made relative to further deepening in the North Channel. An interim report is expected in 1969 which will relate to depths of at least 45 feet L.N.T. Furthermore, an extensive sounding programme is being carried out in the North Traverse with a view to obtaining more pertinent information on the silting problem.

As mentioned earlier, the St. Fulgence Channel has been dredged to a depth of 20 feet L.N.T.

*(b) Lighthouses*

Every important lighthouse has a keeper. If it is a very important light, the keeper resides in the lighthouse; otherwise, he lives in the immediate vicinity. These keepers are trained to effect minor urgent repairs. In addition to the White Island and Prince Shoal Towers (p. 164), there are four lighthouses between Portneuf and Les Escoumins where the keeper lives in the lighthouse.

The trend, however, is towards automation because the equipment now available is very reliable, much superior to what was formerly available. The automatic light is equipped with an emergency system which is automatically switched on if the light becomes defective, as made apparent by a decrease in intensity. Such an occurrence is then reported by an observer, who might be a farmer or a fisherman and for whom it is only a part-time job to note occasionally whether the light is functioning or not.

*(c) Range Lights*

Most of the channels in the Quebec Pilotage District are provided with range lights or steering lights. Only about 25 per cent of the total distance is not so covered, generally because the navigable waters in those sections are so wide that there is no channel properly speaking and the clearing marks are sufficient for safe navigation. There are no range lights in other areas because it is impossible to install them, e.g., the only indication for ships eastbound in Coudres Passage is Buoy 103. Westbound, a controversial substitute device was tried. Morin Bank is indicated by one buoy only since the River at that point is considered wide enough to enable Masters to find clearing marks on both shores.

All range lights are now painted orange which makes them readily distinguishable from any other colour and also clearly visible in winter against the white background.

During the winter season, some fixed lights are extinguished and not relit until midnight April 1, and the Department dispenses with keepers for many of the watched lights because of the difficulties entailed in providing a resident keeper with the necessary supplies. The lights are then put on an automatic system.

If they can be seen, range lights are very reliable aids to navigation because they are fixed aids. In an effort to improve their efficiency these



lights have been changed to a more modern type with the arc of visibility reduced from eight degrees to six degrees. Before deciding on the change, a trial was made of two sets and, when good results were obtained, it was decided to change all the other sets. The new lights are more easily seen in poor visibility along the line where they are used as range lights. It was not felt necessary to consult the pilots before effecting the change because their characteristics as range lights were not altered. In the Quebec Pilotage District there were no complaints about their efficiency or the quality of the light but some objections were voiced in the Montreal area. The District Marine Agent was not aware that some range lights were being used merely as landmarks. During the period when there are no floating aids the pilots use them as points of reference and they complained that this can no longer be done to the same extent as before due to the diminution of the arc of light. This has since been remedied.

The Cap de la Baie light has proved contentious (Ex. 1456(z)). The Dominion Marine Association insisted upon the installation of a set of range lights at Cap de la Baie, i.e., at the west end of Coudres Passage. The technical problem was that at that location it was impossible to install a normal set of range lights because the steep mountain immediately in the background does not allow the necessary horizontal distance between the two lights. An experiment was tried with a three-sector light which showed a white beam to a vessel in the centre of the channel. A green light meant that the vessel was off the centre line to starboard and a red light off the centre line to port.

A Notice to Shipping dated August 17, 1962, stated that this light had been installed for experimental purposes. On January 23, 1963, the pilots wrote to the Marine Agent to report on their experience and expressed their dissatisfaction. On April 5, the Dominion Marine Association strongly maintained the contrary.

The pilots voiced two complaints: (i) the light was too low over the water and in poor visibility was liable to be mistaken for the side navigation lights of an oncoming vessel; (ii) it was more a menace to navigation than an aid in the curve around Coudres Island because the centre beam of a sector light can not be as narrow as the line of sight when range lights are lined up and, therefore, vessels that use it while trying to keep to the centre of the light are either forced off their course by the violent cross-currents in the Coudres Passage or are obliged to proceed at an angle with the channel centre line, with the result that at night they show side lights that do not indicate their true course.

The pilots felt that this light would prove specially dangerous to down-bound ships on an ebb tide when the current is at its strongest and criss-crosses the channel. These cross-currents have to be counteracted before they

are met—this, the pilots say, can not be done when a vessel is being steered on one light alone. With normal range lights the alignment of the two lights readily shows when a ship is drifting off course, while with a sector light it takes some appreciable time to get off the beam and by that time a ship in a narrow channel may be in a precarious situation, especially at night. There is more leeway with a directional light than with range lights. Furthermore, the strong currents which change direction in the bend of Prairie Shoal make it impossible, particularly for small vessels of low power, to remain on the directional beam with the result that they are carried into the path of oncoming traffic.

After the pilots had studied the question at their January general meeting they merely recommended that the light be removed.

On April 23, 1963, the District Marine Agent answered that the same problem had been studied by the Dominion Marine Association and that their Masters had come to opposite conclusions, i.e., that they believed the light was useful. He added that, in the circumstances, the Department intended to maintain it after making some improvements, i.e., enlarging the beam and relocating the device higher up the slope so that it could not be confused with the lights of another ship.

The original sector light was removed and replaced by a tricoloured light relocated much higher than the previous one. The pilots agreed that the danger of confusion with navigation lights of vessels has been eliminated, but they submitted that the other danger remained. Finally, the Cap de la Baie light was discontinued on a temporary basis by a Notice to Mariners issued April 1967, and permanently by a Notice to Mariners issued in January 1968.

#### (d) *Floating Aids to Navigation*

Throughout the District there are numerous buoys and other floating devices to mark shoals and reefs and to indicate the ship channel in restricted areas such as the North Traverse and the dredged St. Fulgence Channel. There are many kinds of buoys—some in special areas carrying lights and others at strategic points equipped with radar reflectors.

All floating aids are not available throughout the year because they are removed before the ice forms at the end of November or beginning of December, as determined each year by the Marine Agent. Since all buoys can not be removed at once, the more important ones are left in position as long as possible. Some are replaced by winter buoys specially designed to avoid damage by ice floes.

These are placed in the most strategic positions as determined by the Marine Agent after receiving the recommendations of Masters, agents, ship-

ping interests and pilots. He holds detailed meetings with the Pilots' Committee, usually at the beginning of each year, to establish which buoys are most needed and should be kept in place up to the last possible moment, as well as those that should be replaced by winter buoys. There was no such meeting in 1962 and the District Marine Agent assumes that it was because the pilots were satisfied with the system. Most of the recommendations he has received have been granted.

The determining factor for repositioning buoys in the spring is the date when the ice floes disappear. This may vary 10 to 15 days from year to year, but is usually between April 10 and April 15, and sometimes even later.

The reliability of buoys as aids to navigation is limited. A Master should not consider them an infallible guide because they are more apt than any other aid to be displaced. They are also more vulnerable. Their efficiency is impaired because they are tossed about by the waves and in the fall they may be covered with ice. Buoys are also occasionally damaged by vessels. An accident of this kind is not very frequent—not more than once or twice a year—but when it occurs it is very seldom reported and is noticed only when a buoy with the marks of impact is found.

Buoys may be displaced either because of a sudden flow of water, e.g., spring tides combined with strong east winds, or because of mechanical failure, e.g., the anchor chain breaks. It is very difficult to keep buoys in place in the vicinity of Red Islet. If one moves even a few feet, the depth is increased to such an extent that the anchor loses its hold and consequently the buoy drifts away. There are also strong currents during high spring tides in the Portneuf section above Quebec which cause buoys to drift away, especially at the beginning of the navigation season when they have just been put in position. Floating *débris* also causes buoys to drift away. Under these abnormal conditions several buoys are liable to drift loose at the same time.

#### (e) *Direction-Finding*

There are two radio-beacons at Red Islet and Bicquette Island (Ex. 1456(u)). The District Marine Agent stated that he had not received any request for the installation of radio-beacons elsewhere. The advisability of placing one in Coudres Passage was once raised but no official request was ever made. At least two serious shipping casualties could have been avoided—the grounding of S.S. *John E. F. Misener* on Lark Reef in 1959 (p. 367), and of S.S. *Exiria* in 1968 (p. 376), if the pilots had used the Red Islet radio-beacon.

The Commission is of the opinion that radio-beacons should be installed in the vicinity of Les Escoumins boarding station, thus enabling the pilots to establish accurately the position of upbound vessels (p. 417).



(f) *Decca System*<sup>1</sup>

The Quebec Pilotage District is not provided with a Decca network but Chain No. 9 is in operation throughout the open waters of the Gulf covering the area from Pointe des Monts to the west coast of Newfoundland and to the coast of New Brunswick. All ice-breakers are equipped with Decca equipment which is used for plotting positions and courses for winter navigation in the Gulf.

About 1957, Computing Devices of Canada set up a demonstration Decca chain in order to promote their product. The main station was at St. Raymond, upstream from Quebec City, and its three slave stations were elsewhere in the District. Although this network did not prove to be efficient in that setting, the Department of Transport was convinced that the system had possibilities. The equipment was purchased and re-established with the main station on Anticosti Island to provide coverage for the whole Gulf.

After testing the system during its trial period the pilots agreed that it did not work very well in the Quebec District, but Pilot Dussault was of the opinion that with some adjustments to the installation and with a skilled operator in charge it would be sufficiently accurate for use in channels as narrow as half a mile. He stated that during a practice run the system had proved to be even more accurate than that.

(g) *Removal of Lightships*

At one time there were three lightships in the Saguenay estuary: (i) White Island lightship marking the middle ground west of Red Islet composed of Hare Island, its reefs and banks; (ii) Red Islet lightship east of Red Islet, some distance off Red Islet Bank; and (iii) Prince Shoal lightship, off Prince Shoal, marking the western limit of the entrance channel to the Saguenay River. These special aids to navigation were necessary on account of the particular difficulties created by the strong, changing currents continually prevailing there. They were better than shore-based aids because in poor visibility it is easier to be guided by a light vessel that can be approached in deep water. At these locations, they were preferable to buoys because buoys are often missed by radar in rough weather while a lightship provides an adequate target.

The White Island and Prince Shoal lightships have been replaced by pillars erected near previous locations of the lightships, but closer to the shore in shallower water to allow their construction. The Red Islet lightship was replaced by a buoy in about the same location as the lightship.

The pilots protested against this last change by telegram and by letter. However, the Department of Transport held firm to its decision but agreed

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<sup>1</sup> The Decca Navigator System is a medium range hyperbolic radio aid to navigation which enables ships fitted with special receiving equipment to fix their position continuously to a high degree of accuracy.

to mark the former location of the Red Islet lightship with a red gas buoy equipped with radar reflectors (Ex. 688, Pilots' Corporation Bulletin, April 24, 1961). On April 26, 1961, the Minister of Transport replied to the Corporation of Pilots explaining that the removal of this lightship had been decided when, after many years, the Department had succeeded in diverting traffic from the South Channel to the North Channel which was opened in 1934; that the North Channel had been improved in 1955 by the installation of White Island lighthouse and in 1958 by Cap Bon Désir lighthouse; that the pilot station had been moved to Les Escoumins; and that the Red Islet lightship, in the Minister's opinion, was no longer necessary, since sufficient navigational aids remained for those vessels which might wish to proceed by the South Channel. On September 10, 1963, the Corporation of Pilots wrote to the Regional Superintendent pointing out that the situation was no longer as described in the Minister's letter, that there was regular traffic south of Red Islet, especially in fog, and therefore, requested that the Red Islet lightship be returned to her station (Ex. 666). However, the Department has not reversed its stand.

Everyone seems to be pleased with the replacement of the Prince Shoal light vessel by a fixed tower. This fixed aid is more reliable than the lightship because, although the lightship was never found out of position, it swung on its anchor under the influence of tidal currents and winds. Consequently, the fog horn did not blow in a constant direction and vessels occasionally came too close to the lightship before they heard the horn. The tower also has the advantage of being available throughout the year while the lightship could not be maintained on station during the winter season. The Prince Shoal pier is a man-made island. A caisson was constructed in a dry dock and towed to its site and sunk there. Above the caisson a tower was erected supporting a light whose lantern is the most powerful in North America: in fog it is 32,000,000 candlepower and in clear weather 300,000 candlepower. In light fog the light should be visible two miles away. It is equipped with three fog horns pointing in three different directions, one southeast, i.e., in the general direction of the St. Lawrence River, one westward and the third northeast towards the Saguenay with an audibility range of four or five miles depending on the weather. A fourth horn has since been added (Ex. 1538(g)).

The pilots pointed out that fog horns are very capricious aids which are affected by weather and wind. They can not be kept in operation during winter for technical reasons because the cold prevents them from functioning normally. Sometimes they can be heard miles away, while at the same moment they can not be heard by ships close to them.

It was not planned to install a radio beacon on Prince Shoal light, although this will be done if it becomes necessary and provision has been made in the design for its installation. A radio beacon of this type would be a large beacon to enable ships to determine their position on the River. At

present, there is, as noted above, one beacon located on Red Islet. Two beacons so close together would be useless for cross-bearings because the angle would be too small to be of any help at any distance.

The light is maintained continuously by a four-man watch. The pier has a helicopter platform and the Department of Transport is planning to have a second helicopter platform erected on White Island pier to answer emergency calls.

At the time of the hearing in Ottawa on September 15, 1964, it was reported that the Prince Shoal pier was in operation and was quite effective. Some dissatisfaction was voiced, however, with the fog horns. This has since been corrected.

*(h) Aids to Navigation on the Saguenay River*

Because the Saguenay is so deep, the only buoys are a cluster in the estuary to mark the entrance to the river, one buoy marking a bank at the southern entrance to Ha Ha Bay, and a series along the St. Fulgence dredged channel into Chicoutimi. There are land-based lights and range lights, viz., the Pointe Noire leading lights at the entrance and seven ranges indicating the seven courses in the St. Fulgence Channel. The most important buoys are fitted with radar reflectors and there is a fog horn at Pointe Noire.

Since electricity transmission lines are not available all along the Saguenay, most lights must be operated by batteries or by gas with a consequent lessening of effectiveness. The Commission was informed that a lantern with an acrylic lens which provided better optical results had been developed and that it was planned to install this type in the near future. At the opening of navigation in 1963 and 1964, new lenses were installed in ten lights on the Saguenay.

All lights, except those at Pointe Noire, are unwatched but all range lights are fitted with an emergency device and there is a caretaker to oversee the lights from St. Fulgence to Chicoutimi. Because these range lights are in a dredged channel, they are considered more important to shipping than the light beacons on the main Saguenay where there are no shoals.

Defective lights are normally reported to the Department of Transport through the Port Authority at Chicoutimi.

At Pointe Noire two lightkeepers look after the range lights and the fog horn. They live in the lighthouse except during the winter when they go home across the river to Tadoussac. Between them they maintain a 24-hour watch during the whole season of navigation on the Saguenay.

The system of aids seems to be adequate since the Marine Agent has received no recent requests for improvements or for an increase in their number. Despite this, there have been improvements. Apart from replacing the lightship with the tower at Prince Shoal, the Pointe Noire lights were improved, their candle power was increased and their colour changed to



green. Masters reported they were adequate and satisfactory. In accordance with the new policy the day markers were painted orange flame colour which is more visible under any conditions.

As indicated before, the series of buoys at the entrance to the Saguenay River is more liable to be removed or displaced because the tides and currents there are so powerful. Buoy 35B, situated off the northeast ledge of Red Islet, is particularly likely to be displaced since it is directly in line with the outflow from the river.

The buoys are removed when the ice forms in the fall, or earlier if the Chicoutimi Port Manager sends word that the last ship is out. When the river is frozen in late November or mid-December it is difficult and dangerous to remove the buoys. One year they were left until later in the year but five which broke away from their mooring were lost. A displaced buoy is a hazard to navigation because it is out of position. It takes very little ice to displace a buoy and, for this reason, a careful check is kept of the water temperature. The buoys are not removed until the temperature drops to approximately 35-33 degrees but some ships can still proceed to Chicoutimi because the range lights and other land-based aids remain in service.

Apart from the buoy at the entrance to Ha Ha Bay, only wharf lights are provided. No leading lights or range lights are necessary since there is no dredged channel, the bay is quite large and the water is deep.

The Quebec Marine Agency has no responsibility for aids on private wharves, the policy being that these should be provided, maintained and operated by the owners. The Department, however, supplies technical advice about the installation and procurement of aids. Before they are installed, permission has to be obtained from the Department of Transport, which will then include them in the official list of lights and will have them shown on the charts of the area.

In the St. Fulgence dredged channel there are also mooring buoys installed at the edge of the channel for tankers. They can not be sited farther away from the channel unless a considerable amount is spent dredging a larger basin.

#### (i) *Efficiency of Aids to Navigation*

Throughout the Quebec Marine Agency, which extends beyond the Pilotage District to Natashquan and Shippegan, there were over a thousand different aids in 1962. That year there was an average of 14 failures reported each month, most of which concerned floating aids. Repairs took from a few hours to five or six days depending on location and priority and the availability of transportation and facilities. In the Quebec Agency some 15 Department of Transport vessels are concerned with maintaining aids to navigation, but this is not their exclusive duty.

If a failure can not be repaired quickly, ships are informed by a Notice to Shipping broadcast by various coastal stations and over the VHF network of the Marine Traffic Control System. In the event that repairs take longer than a few days, a Notice to Mariners is sent out. When there is some urgency the pilotage office is informed by telephone in order to disseminate information more quickly, e.g., a buoy is so far out of position that it could cause an accident. The radio broadcast is repeated at frequent intervals until repairs are completed or the Notice to Mariners has reached those concerned. However, if repairs can be made within a few hours, no Notice is issued.

Few complaints have been received about winter buoys. However, these buoys are often not visible because they are constructed in such a way that they submerge when an ice floe drifts over them. There are complaints when buoys are displaced during the rest of the year but these are infrequent in the Quebec District. The Department of Transport vessels have developed a system to verify the position of all buoys they pass at any time.

Complaints and requests are received throughout the year—some asking for additional aids, others for improvements to existing aids but very few for the relocation of a buoy because the siting of buoys is in most cases the result of many years' experience.

Complaints and requests are made in various ways: locally to the District Marine Agent, directly to the Department of Transport or directly to the Minister by groups such as the Organization of Owners of Small Vessels on the St. Lawrence, the Pilots' Corporation and the Dominion Marine Association. Requests for new aids or improvements are studied locally by the District Agent with his officials. All the data are gathered so as to make a sound recommendation to the Department, normally in writing but by telephone if there is any urgency. The District Marine Agent believes that it is good policy to hold periodic meetings with the pilots and shipping interests at the District level to discuss improvements and modifications to navigational aids so that the pros and cons can be fully discussed.

Captain G. E. Gaudreau, District Marine Agent, stated that, while buoys are very useful, they are less important than fixed marks such as range lights and should be used in conjunction with other aids. Ranges are absolutely necessary, buoys only relatively so. In winter when there are very few floating aids the pilots take ships through without much difficulty. He agreed that traffic is very light during the winter season and other vessels are seldom met, but felt that, if buoys are in position during the summer to help the navigator, he should be able to ascertain whether they are in position or not. In narrow channels, however, buoys have a greater degree of importance.

There has never been an occasion when the ship channel was completely blocked. When sinkings or groundings did occur the vessels involved became partial obstructions and were indicated by markers. Passing vessels were required to reduce speed and detour, e.g., the *Tritonica* wreck.

There have been only two occasions when it was necessary to halt navigation for a short period. In 1960, traffic between Cap Rouge and the Quebec Bridge was stopped for two hours until a caisson that had gone adrift was blown up. On October 10, 1961, shipping in the Quebec area was held up briefly until the harbour authorities investigated the stranding of the tanker *Vibex* and the resultant loss of a large quantity of inflammable liquid.

#### COMMENTS

Since 1965, the following improvements have been made to aids to navigation (Ex. 1538(g)):

##### *South Channel*

- (i) Brandypot Island—new light installed with intensity increased to 10,000 candle power;
- (ii) Hare Island West End—new light established;
- (iii) Notre Dame du Portage—new light established;
- (iv) Bellechasse Island—lights improved.

##### *North Channel*

- (i) Brûlé Bank—completely new towers and structures erected for leading lights;
- (ii) Cap aux Corbeaux—range lights fitted with additional lights to increase visibility eastward;
- (iii) St. Michel de Bellechasse—leading lights for the North Traverse improved.

##### *Eastern Section of the District*

- (i) Prince Shoal Pier—additional fog horn established;
- (ii) Red Islet—light improved;
- (iii) Tadoussac—operation of fog signal assumed by D.O.T.

##### *Saguenay River*

- (i) Pointe Noire—additional light fitted to the range light to increase arc of visibility.

##### (j) *Centre Line*

Some charts of the River contain a dotted line marked “centre line of ship channel” which does not correspond to the middle of the channel but is the centre line of the normal traffic lane (C.H.S. Chart 1321, Ex. 442).

As far as the harbour of Quebec is concerned, this line lies well to the north side of the channel and at one or two points is as close as one or two cables to the shore; while not the actual centre of the channel it gives vessels as long a reach as possible (except in the bends where it runs in a curved line) so that they do not have to change course to follow the contour of the land. The centre line enables a ship, particularly a large ship, to maintain a straight course for as long as possible and may take her a considerable distance from the actual centre of the River.



The existence of this dotted line on charts creates a legal problem because there are no specific regulations covering either navigation in the harbour of Quebec or the centre line. Therefore, the pilots are of the opinion that the rule of the road should prevail.

The Canadian Hydrographic Service, Surveys and Mapping Branch, Department of Mines and Technical Surveys (now Department of Energy, Mines and Resources) took the responsibility for including this line in their charts. In the pilots' opinion, the centre line is justified from a safety point of view because it gives a good indication of what courses vessels should follow. Pilot Dussault pointed out that a large ship is much safer when steering a straight course, especially at night, and has less difficulty meeting and passing other vessels. Alterations of course require more manoeuvring, more space and closer attention by those conning the ship, especially when negotiating bends. In addition, an alteration of course makes it more difficult to keep to the starboard side of the channel. For all these reasons, a straight course is both easier and safer.

However, the pilots have queried the advisability of the centre line where the River curves, particularly in the bend between Lauzon and Beauport shoal. Pilot Dussault said he did not believe an upbound vessel could steer a course close to the centre line and at the same time obey the rule of the road. He felt that in this section the line creates confusion because vessels should keep as close as possible to the starboard side of the channel where the River bends, and not merely to the starboard side of the centre line since the latter course might endanger other ships. As far as he knew, the pilots had made no representations to the Pilotage Authority on this subject.

(k) *Notices to Shipping and Notices to Mariners*

District Marine Agents publish information and warnings of immediate local interest in *Notices to Shipping* after first sending out broadcasts through Department of Transport radio stations.

The Department of Transport disseminates data, information and recommendations concerning the safety of navigation in Canadian waters and waterways in *Notices to Mariners*. Usually the information in these Notices has already been broadcast or published in a Notice to Shipping, but they also contain official corrections to charts and publications.

The material is appraised and verified prior to publication to ensure that the information is valid and worth publishing. It is also checked by the Canadian Hydrographic Service for its effect on their charts and publications. About three weeks elapse between the receipt of information and its publication, provided there is no error to correct.

The mailing list for Notices to Mariners (between 4100 and 4500 addresses) is amended weekly. It comprises individuals, companies and all

those who have requested a copy. In addition, these Notices are automatically sent to pilotage offices, customhouses, shipping masters' offices, etc. The service is without charge.

#### COMMENTS

Canadian Notices to Mariners have not been especially studied to establish their efficacy as media of information on safety of navigation, but judging by those that the Commission has found it necessary to refer to and analyze it would appear that this valuable instrument could easily be improved upon.

In some cases, the Notice lacks the necessary details, e.g., No. 30, 1969 Annual Edition, bearing the general title *General Information on Pilotage Service*. This title is misleading in that the scanty information provided is incomplete, at times in conflict with Pilotage By-law requirements, concerns only Districts where the Minister is the Pilotage Authority and does not convey any of the ETA requirements in the other Districts. For further comments on its adequacy for the District of Quebec, see pp. 185 and 186 and 413 and ff.

It would appear that the Notices are not compiled with the aim of being fully informative but deal with a subject piecemeal without the cross-references or coordination which would enable the reader to obtain full information quickly. Each branch and office in the Department apparently draws up Notices on subjects in which it is interested without any attempt at internal coordination, and also fails to warn the reader that the matter is only partially covered. One such example is No. 25, 1969 Annual Edition, concerning the *Marine Traffic Control System*. In this regard, reference is made to the comments on pp. 185-190.

##### (1) *Cost of Aids to Navigation*

The cost of broadcasting and publishing these Notices and of erecting, replacing and maintaining aids to navigation is borne by the public through the Department of Transport. There is no charge to shipping for their use as was the practice for some time before Confederation. Furthermore, there is no charge to vessels when they obtain the assistance of ice-breakers nor for the information and guidance service provided through Marine Traffic Control and the Ice Operation Service described later.

The only charges the Department makes to shipping are for the use of their wharves and cranes. Apart from the services provided by the National Harbours Board in Quebec, the only port in the Quebec Agency with a crane is Rimouski. Except for the wharves belonging to the National Harbours Board at Quebec and Chicoutimi, all other publicly-owned wharves in the Quebec Agency are under the jurisdiction of the Department of Transport.

(m) *Racon and Ramark*

*Racon* (the abbreviation for Radar Responder Beacon) is a radar beacon which gives positive identification of objects which are of particular importance in navigation. The manual *The Use of Radar at Sea* states:

"The Racon can be considered as an electronic reflector which will return to the Radar set a signal which is not only magnified but has unique characteristics so that its appearance on the radar screen will readily identify the object from which it comes. In principle, the racon is extremely simple. The pulse of radio energy which leaves the radar aerial is received by the racon aerial and fed to the receiver, where it is amplified and passed to the transmitter which re-radiates it to the radar set."

Such a device is particularly useful when and where there are many targets on the screen at the same time, e.g., at the entrance to the Saguenay River in fog when many ships may be moving or at anchor.

*Ramark* (the abbreviation for Radar Marker) is an active beacon which gives a continuous coded signal at radar frequency. Masters of ships provided with code lists can obtain a bearing on a positively identified object.

The pilots were impressed by the possibilities of these electronic devices as aids to navigation, and on May 24, 1960, they recommended to the District Marine Agent that a Racon system be installed on board the Prince Shoal and Red Islet lightships at the entrance to the Saguenay River.

The District Marine Agent informed the Commission that, as far as he knew, the advisability of installing Ramark or Racon equipment at the entrance to the Saguenay had not yet been considered. At first sight, he believed this type of device might be useful because it would permit identification long in advance of the three main points close to the entrance, Prince Shoal pier, Red Islet and White Island pier.

So far (1970) neither device has been installed anywhere in Canada (Ex. 1461(a)).

(n) *Navigational Instruments in Ships*

Vessels nowadays carry an ever-growing number of instruments whose purpose is to facilitate navigation, especially in adverse conditions. Some of these instruments are a complete aid in themselves, such as the gyro compass, the echo sounding device and radar; others can be used only in conjunction with land-based aids, e.g., the Decca and Loran systems, the direction finder, telecommunication equipment, WT and RT with HF and VHF frequencies.

Most vessels now carry a gyro compass, but there is still the occasional older vessel fitted with a magnetic compass only. There is also the ever present possibility that the gyro compass will suffer a mechanical failure. Pilots, therefore, must be very familiar with the use of the magnetic compass and be able to take into account the local variation, as well as to allow for the compass deviation and total error. It is also essential that when they embark they ascertain whether the gyro compass is functioning accurately.



The pilots seldom use the echo sounding machine because it gives only the depth under keel while the bottom features change abruptly. When navigating the shallow waters of dredged channels, the information provided is of little value except when they wish to verify sounding data for their own information.

Radar is the eye of the ship when physical visibility is reduced or nil. However, it is a limited substitute for the human eye and must be used with extreme caution and by qualified persons. The advent of radar has not affected Rule 16 of the Collisions Regulations (p. 153 and pp. 379 and ff.). Ships must proceed at reduced speed in limited visibility and make the prescribed fog signal.

Most vessels are now fitted with radar but before using it pilots should be well acquainted with the operation and interpretation of the equipment carried. This should be part of their general training. They should also be able to identify land features and aids to navigation as they show up on a radar screen, and it should be part of their local knowledge to be aware of the interference likely to be met at particular places. It is a sound practice and no more than normally good seamanship to switch on radar before low visibility is encountered.

It was stated that in confined waters radar should not be used as the sole means of navigation at night when visibility is normal. Even on very dark nights an experienced mariner can easily be guided by marks and lights and by his local knowledge. Radar can then be used as a means of verification.

Pilot Dussault stated that pilots should acquaint themselves with the particular shape and form of the land features of their District as they show up on the radar screen. For instance, the North Traverse is difficult to navigate by radar because the islands are not parallel to the channel and the beaches on the north side are difficult to identify. In that particular sector radar has to be watched very carefully to determine whether a vessel is in the centre, or near the centre, of the channel. Faulty interpretation of such radar information was one of the contributing factors to the collision between M.V. *Lawrencecliffe Hall* and S.S. *Sunek* in the North Traverse on November 16, 1965 (p. 373).

At the entrance to the Saguenay River there is often radar interference caused by very strong tide rips which produce many echoes, especially at the change of the tide. At low tide there are also a great number of echoes caused by boulders and ridges for nearly five miles around. The utmost caution must be exercised not to miss the echo of a small vessel, i.e., to distinguish a moving echo from steady echoes.

Pilots should also keep their general knowledge up to date. Pilot Dussault observed that it is a fact that some Masters, pilots and others hesitate to

use the true motion radar because they are not familiar with it. This is a complete departure from the relative motion radar where the central point of the screen is the ship, while with the true motion instrument the ship is a moving object on a fixed chart. They hesitate to use it because they have not as yet had enough practice. Both theoretical and practical studies are required.

Pilot Dussault had courses in radar when it was first introduced around 1952-53. Since then he has not attended any organized courses but he has studied by himself. He is aware that radar sets are continually improving and he agreed that it would be advisable for the pilots to have refresher courses on radar operations, e.g., during the wintertime. These courses should cover not only operations but perhaps also maintenance to a small degree, e.g., how to operate a set in order to improve reception, or how to detect whether the head marker is off centre. The latter is one of the points that a pilot should check and should know how to adjust. In his opinion, the pilots should become well acquainted with new types of radar and all other improvements to navigational instruments as soon as they appear. For the Commission's recommendation on the matter, reference is made to Part I, Gen. Rec. No. 31.

The Courts of Formal Investigation which dealt with the five major casualties that occurred in the Quebec District since 1959 (pp. 367 and ff.) indicate that in all cases the faulty use of radar by pilots as well as ship's officers was a contributing factor, that too much reliance was put on radar and that ships were driven at full speed as if radar provided full visibility. It was found that the pilots failed to make correct and intelligent use of the information provided by radar due to their lack of knowledge of, and training in, its use. The Pilotage Authority, however, has no power under the present regulations to compel licensed pilots to acquire further knowledge and to undergo training (vide Part I, pp. 350 and ff.).

The Pilotage Authorities are trying to persuade the pilots to undergo training in radar on a voluntary basis. Winter courses are now available at the Quebec Marine Institute but attendance is voluntary (p. 251). In a letter dated May 13, 1966 (Ex. 1457) the Chief of the Nautical and Pilotage Division of the Department of Transport reported:

"Pilots have been urged to take advantage of existing courses in radar and, in the case of our salaried pilots on the Great Lakes, they have all taken the course in Toronto with all expenses paid. This could not be arranged for the licensed pilots of the Montreal and Quebec Districts, who were nevertheless urged to take courses that were available. Our latest information is that about 52 of the Quebec District pilots have taken courses, although not all were successful in passing the examination."

Since 1960, the Department of Transport has issued Notices to Mariners which drew the attention of the pilots to the recommendations of the conference on safety of life at sea concerning the use of radar in avoiding

collisions at sea. These recommendations were adopted by the International Conference at its 1960 meeting, but the concurrence of all the member countries was required before they could be put into force. In the meantime, however, the Department of Transport published them for information in 1960 in Notice to Mariners No. 216, which was reproduced in the first issue of Notices each year thereafter (e.g., Notice No. 18 of 1963). On August 25, 1965, when *Collision Regulations* were revised they were annexed to the rules as recommendations and were reproduced with the new rules in Notices to Mariners (e.g., in August 1965, as Notice No. 686, and as No. 20 in the first issue of the 1966 Notices).

These recommendations (Ex. 1472) read as follows:

*"Recommendations on the use of radar information as an aid to avoiding collisions at sea.*

- (1) Assumptions made on scanty information may be dangerous and should be avoided.
- (2) A vessel navigating with the aid of radar in restricted visibility must, in compliance with Rule 16(a), go at a moderate speed. Information obtained from the use of radar is one of the circumstances to be taken into account when determining moderate speed. In this regard it must be recognized that small vessels, small icebergs and similar floating objects may not be detected by radar. Radar indications of one or more vessels in the vicinity may mean that "moderate speed" should be slower than a mariner without radar might consider moderate in the circumstances.
- (3) When navigating in restricted visibility the radar range and bearing alone do not constitute ascertainment of the position of the other vessel under Rule 16(b) sufficiently to relieve a vessel of the duty to stop her engines and navigate with caution when a fog signal is heard forward of the beam.
- (4) When action has been taken under Rule 16(c) to avoid a close quarters situation, it is essential to make sure that such action is having the desired effect. Alterations of course or speed or both are matters as to which the mariner must be guided by the circumstances of the case.
- (5) Alteration of course alone may be the most effective action to avoid close quarters provided that:
  - (a) There is sufficient sea room.
  - (b) It is made in good time.
  - (c) It is substantial. A succession of small alterations of course should be avoided.
  - (d) It does not result in a close quarters situation with other vessels.
- (6) The direction of an alteration of course is a matter in which the mariner must be guided by the circumstances of the case. An alteration to starboard, particularly when vessels are approaching apparently on opposite or nearly opposite courses, is generally preferable to an alteration to port.
- (7) An alteration of speed, either alone or in conjunction with an alteration of course, should be substantial. A number of small alterations of speed should be avoided.
- (8) If a close quarters situation is imminent, the most prudent action may be to take all way off the vessel."

Electronic shore-based aids can be of assistance only to those vessels which carry the proper receiving instruments. For example, accurate navigation is now possible during darkness or fog in the Gulf of St. Lawrence, which is serviced by a Decca system, or in the Atlantic Ocean, which enjoys



a Loran system, but all the care and expense involved in creating these systems goes for nothing if ships do not carry instruments to make use of them. Neither Decca nor Loran is available in the Quebec Pilotage District.

Most ships are equipped with direction-finding equipment (D.F.). This is, however, of little use in the District because radio beacons are available only at the eastern limit, i.e., at Bicquette Island and Red Islet. All the same, D.F. is most useful in that vicinity during poor visibility since the violent cross-currents there may throw a vessel off course, as happened in the stranding of the *John E. F. Misener* on November 6, 1959. The casualty would have been avoided if, as a double check, the pilot had tried to verify the position of his vessel with the Red Islet radio beacon. He would then have discovered that the vessel was passing north of Red Islet instead of south as the pilot intended and as he was certain was the case (p. 367).

The telecommunication equipment in a number of vessels is still not up to modern standards and requirements. While by international law all ships are equipped with WT, some vessels still have no equipment for radio communications. This situation is being corrected (p. 181).

In Great Lakes vessels the radiotelephone equipment is installed in the wheelhouse ready at hand for the pilot or ship's officer conning the vessel. This is not always the case in ocean-going ships where too often the set is in the radio room depriving the pilot of direct control of the radiotelephone. Some vessels, however, have extensions from the radio room to the wheelhouse and this problem does not arise when the pilots take their portable set on board.

To enhance the safety of navigation the pilots made two other valuable recommendations on equipment. While they understand that these proposals can not be acted upon by the Canadian Government without an international agreement, they suggest an approach by Canada to the International Maritime Civil Organization (IMCO).

First, they recommended that sound signals be supplemented by an automatic luminous device which shows a white light when the siren is sounded with the object of identifying vessels in harbour and in dense traffic (cf. the present system on the Great Lakes). This practice is also useful when vessels are approaching because the wind may interfere with the sound signal. If the pilots know that some signal will be made and are waiting for it, they will notice the light signal if the siren is not heard. Steam whistles combine sound with a white plume which can be seen for a long distance but modern sirens have no visual component.

They also recommended a rudder angle indicator and an RPM indicator in the wheelhouse so located as to be easily seen by the pilot and enabling him to verify at a glance whether the wheelsman is steering the desired course and whether engine orders have been properly executed. The Seaway

pilots would like to have these instruments installed in both wings of the bridge where they frequently have to stand when manoeuvring vessels in canals and locks.

(o) *St. Lawrence River Navigation Safety Regulations*

These regulations are enacted by the Governor in Council pursuant to sec. 645 C.S.A. in order to enhance safety of navigation on that part of the St. Lawrence River extending from Les Escoumins to the west end of Montreal harbour. The regulations now in force were made by Order in Council P.C. 1967-700 of April 13, 1967, and revoked the former regulations which dated from 1954.

In addition to provisions dealing with the navigation of small vessels (secs. 4-7) and speed regulations when meeting tows, dredges, etc. (secs. 8-9), the main provisions applicable to the Quebec Pilotage District are:

- (i) *sec. 10*—obliges vessels navigating against current or tide before meeting another vessel at any place where navigation is difficult to slow down and, if necessary, to allow the other vessel to pass the point of danger before approaching that point;
- (ii) *sec. 11*—prohibits towing barges more than two abreast, and the total length of a composite navigational unit is not to exceed 1,000 feet;
- (iii) *sec. 12*—makes it an offence for the Master, officer of the watch or pilot not to obey immediately the traffic control orders of a Harbour Master or of a marine traffic controller as well as an order received from an officer of the Canadian Coast Guard or the Royal Canadian Mounted Police (unless it is not practicable to do so).

(p) *D.O.T. Marine Information and Telecommunication Services*

At the time of the Commission's hearings, the Department of Transport operated for the benefit of shipping an information service on maritime traffic and weather conditions which had not changed basically since the time of sailing ships. In addition, an inefficient and obsolete marine radio network left vessels without ship-to-shore radio communications for long stretches of the St. Lawrence River, to the detriment of safety in an era when the number of large, faster ships is rapidly increasing and traffic proceeds even in the most adverse weather conditions with the aid of shipborne electronic aids to navigation. Furthermore, the St. Lawrence River east of Les Escoumins was considered officially closed during the winter season despite steadily increasing traffic.

The Commission received many complaints about these antiquated services, the attitude taken by the Department of Transport and its failure to realize the seriousness of the situation and take advantage of modern develop-

ments in science and technology. One electronic firm, Computing Devices of Canada Limited p. 110, proposed to the Commission a modern system of surveillance and information for the River St. Lawrence.

Great progress has been made since the Commission's hearings. The Marine Radio Service has been substantially improved; the Ice Advisory Service has been extended to the St. Lawrence River; the Department of Transport has established a modern surveillance and information system, whose reliable radio network, *inter alia*, enables the Quebec and Montreal Port Authorities to communicate berthing instructions and other information.

(i) *The former Marine Reporting Service*

As a service to shipping, Pilotage Authorities, Port Authorities and other interested parties, the Department of Transport reports the maritime traffic situation and the weather conditions on the St. Lawrence River as they develop. This service was formerly called the *Marine Reporting Service* normally referred to as the *Signal Service*.

Up to 1966, this information was gathered visually by observers stationed at intervals along the River who reported every ship they could see passing their observation post, giving her time, name and direction. In addition, these observers recorded the prevailing weather conditions. Originally, the service provided local weather information to passing vessels by semaphoring from the land station the conditions some distance ahead. Later, traffic and weather information was transmitted by land telephone or teletype to a central signal station.

The Signal Service broadcast at regular intervals over the coast radio stations meteorological reports compiled from the information gathered by these observers. It also complied with special requests from ships by obtaining through land telephone or teletype up-to-the-minute reports from the observers in the areas concerned and transmitting the information through coast radio stations.

The Signal Service also relayed maritime traffic data to those concerned. This was done in two ways:

- (i) information was first transmitted to the Pilotage Authorities and Port Authorities over the teletype network which served them;
- (ii) printed bulletins were issued twice daily (except during the weekend) quoting the time various vessels passed the observation posts (Ex. 769).

The observation stations were at Sept-Iles, Les Escoumins, Pointe Noire, St. Jean (Ile d'Orléans), Quebec, St. Nicolas, Grondines, Batiscan, Trois-Rivières, Sorel, Cap St. Michel and Montreal. The Marine Reporting Service had at its disposal a teletype circuit running from Sept-Iles to Montreal with various intermediate stations including some of the coastal Dept. of Transport telecommunication stations. This teletype circuit was linked with a



similar teletype circuit along the Seaway between Montreal and Sarnia with Montreal as a control station. Since these teletype networks were also used for other purposes, there were complaints that long delays were experienced and that at times it was not possible to clear the circuit for urgent messages.

The observation posts were normally closed during the winter season, but some were manned temporarily whenever a ship in transit was expected. In recent years, ice observation stations had been added during the winter season at places where ice was more liable to accumulate, e.g., Ile aux Coudres passage, the Quebec Bridge, Donnacona and Portneuf, so that up-to-the-minute information about ice conditions could be obtained from these observers over land telephone and the teletype network.

Captain J. J. Gendron, whose previous service included several years with the Department of Transport as Regional Superintendent for the St. Lawrence region, expressed the opinion at the Commission's hearings that this Signal Service did not meet present day needs and that there was much room for improvement. He referred particularly to the inefficient procedure (by modern standards) for obtaining information about the passing of ships by visual means although weather conditions often prevented a clear view. He believed greater use could be made of the telecommunication devices modern ships carry. He proposed that the visual observer system be abandoned and that it be made compulsory for vessels to report when they passed certain check points on the River, giving both their position and direction, as well as reporting on the prevailing weather conditions. These reports would be collected at a central office where a record would be kept of the progress of all vessels and up-to-the-minute information could be relayed to all concerned. Similarly, the weather reports received from these vessels would be arranged so as to provide an up-to-the-minute picture of the weather throughout the area.

For this purpose, as well as for establishing communication with every ship, he favoured making it compulsory for vessels to carry radiotelephone equipment in pilotage waters.

One of the recommendations of the Court of Formal Investigation into the collision of *M.V. Lawrencecliffe Hall* and *S.S. Sunek* (p. 373) dealt in part with this subject:

The Court further recommends:

"1. That regulations be enacted in order that any ship of a certain tonnage which sails in Canadian pilotage waters be equipped with a V.H.F. radiotelephone and that security calls be given as to her position, destination, direction and speed at certain points of the route, said points to be detailed in the regulations."

In a letter dated April 29, 1966 (Ex. 1466(f)) the Department of Transport informed the Commission that it had embarked on a very extensive study of safety conditions on the St. Lawrence River. As a development

of this study, a new information service for the St. Lawrence River was being organized and, as an interim measure, steps were being taken to provide ships lacking VHF radiotelephone equipment with portable sets at Les Escoumins.

(ii) *Marine Traffic Control System and Marine Information Service*  
(Ex. 1538(b))

Since 1966, the former Marine Reporting Service has been gradually replaced by the Marine Traffic Control System which came into full operation in April 1968. It covers the St. Lawrence River from Sept-Iles to the western limit of the harbour of Montreal, i.e., a distance of 425.5 nautical miles. At present, the Saguenay River is not covered.

In official publications the objectives of the Marine Traffic Control System are stated as follows:

- (i) to prevent collisions between ships;
- (ii) to prevent collisions between ships and obstructions in the channel;
- (iii) to maintain a safe, expeditious and orderly flow of shipping in waters under jurisdiction;
- (iv) to alert appropriate authorities when ships are in need of assistance.

The purpose of the system can be summed up as follows:

- (i) primarily to provide an up-to-the-minute information service on traffic, weather conditions and all other matters related to the safety of navigation within the system;
- (ii) to serve as a means of controlling ships' movements within the system;
- (iii) to provide reliable ship-to-shore and ship-to-ship radio communications.

The visual observation post system has been abandoned and the necessary data for the information service is now obtained from ships in transit which are requested to report *en route* their progress, the prevailing weather conditions and any situation affecting the safety of navigation.

There are at present two main weaknesses in the system: first, the availability of information is dependent upon the presence in the system of a number of vessels in the various sectors; secondly, since the service is based on a VHF communication network, there is no direct way of ascertaining that a vessel lacking the appropriate equipment is in the area. Normally, these flaws create few inconveniences and alternate means are being devised to remedy them.

With regard to VHF, the ultimate solution is to make it compulsory for ships to carry this equipment. Steps are now being taken in that direction. Until recently, this could not be done since an amendment to the Canada Shipping Act was required, and this in turn was governed by the existing

international agreement on the matter which did not provide for such an exigency. In recent years, however, VHF radiotelephone has become standard equipment in most vessels and the need for it has now been recognized in international safety conventions. On July 9, 1969, by 17-18 Eliz. II c. 53, secs. 411, 412 and 413 C.S.A. were amended in order to make it possible to compel vessels navigating in Canadian waters to carry the required VHF radiotelephone equipment where deemed necessary. To implement this amendment within the system it will now be necessary to have appropriate regulations drawn up and adopted.

For vessels not so equipped, portable radio sets are available for a nominal fee at every boarding station. If a pilot is employed, he brings a portable set on board and, in this event, a radiotelephone charge is included in the pilotage dues.

The headquarters of the system is in Montreal where the necessary liaison is maintained with the compulsory Seaway Traffic Control which has existed since the opening of the Seaway.

For the purpose of radio communications, the St. Lawrence has been divided into six sectors where two-way communications are maintained on separate assigned VHF frequencies between the Control Centres and ships to avoid interference with adjacent sectors. Vessels are required to maintain a continuous listening watch on the assigned sector frequency. The system is divided into two control zones: the eastern zone, which extends from Sept-Iles to Yamachiche Bend in Lake St. Peter, covering sectors 1 to 4 with the Control Centre in Quebec City; the western zone, which comprises sectors 5 and 6 and extends from Yamachiche Bend to the western limit of the harbour of Montreal, with the Control Centre in Montreal.

To gather information from ships in transit the system is divided into 24 check points where vessels are required to report to Control Centre by giving name, check point, ETA at next check point and the prevailing weather conditions. Additional reports between check points are to be given when requested by the Control Centre, or immediately to report any matter affecting the safety of navigation, such as defective aids to navigation, obstructions in the channel, disabled or hampered ships, and unusual weather conditions.

Information from these sources on ships' movements is relayed by the Control Centres to the Montreal headquarters for dissemination outside the system through the *Traffic Information Centre* to the Harbour Authorities in Quebec and Montreal, the Seaway Authority, the Pilotage Authorities concerned and also the general public. Within the system, ships are informed of the traffic situation as it develops by listening to reports on the sector frequency; in addition, up-to-the-minute traffic reports may be obtained from Control Centres upon request.



This traffic information is perforce incomplete since only ships with VHF equipment can report. This will be remedied when VHF equipment is made compulsory within the system as in the Seaway. However, the problem is not serious, since at the present time over 85 per cent of the ships on the River have permanent VHF installations and the majority of the remainder are provided with VHF portable radio sets when a pilot goes on board. There are a few smaller craft whose VHF sets lack all the required channels but the Control Centre endeavours to communicate with them on one of the channels they have. This, however, is not deemed desirable because it destroys the "party line" concept on which the system is based. The Control Centre endeavours to keep track of the few ships without VHF communications through position reports from ships with the proper sets.

At present, radar surveillance is maintained only in certain parts of the harbours of Quebec and Montreal.

Weather reports received from ships are also relayed by the Control Centres to the Montreal headquarters for dissemination. Within the system, weather information is furnished by the Control Centre through routine broadcasts or upon request.

Information affecting safety of navigation is transmitted to the Montreal headquarters for immediate dissemination through Notices to Shipping over the coast marine radio station network. Within the system, such information is also broadcast forthwith by the Control Centre concerned to vessels in the sectors affected. These Notices to Shipping will be repeated by the coast stations and the Control Centre on routine broadcasts until the emergency is over.

The system is effective in obtaining weather information during the normal navigation season since traffic is relatively constant throughout the area at that time. Reports from ships in transit combined with forecasts from the Dorval Observatory give an adequate overall weather picture. During the winter months, weather and ice information is received from D.O.T. establishments on the River as well as from the few ships in transit. During the 1969/70 winter, reports will also be sent from a fixed-wing aircraft of the Coast Guard to supplement this incomplete information. Electronic equipment to provide weather information is also being tested. At present, there is a fog detector at Batiscan which covers only a small section of the River. It is reported the difficulties experienced appear to be caused more by the transmission line than the instrument itself. Additional fog detectors will be installed at the more critical points when these difficulties are overcome.

At all pilot stations, a pilot may receive up-to-the minute weather and ice conditions by calling a "code-a-zone" number on land telephone and listening to a tape recorded report which is amended as the situation changes.

Each pilot station posts a list of vessels operating in the immediate vicinity of the boarding station; this is updated every hour. Before a vessel

departs from a berth or anchorage, the pilot must request clearance through a Control Centre. He is informed whether vessels are in his immediate vicinity and clearance is not given if they present a navigational hazard. In addition to the information a relieving pilot at Quebec or Trois-Rivières may obtain at the pilot station, he should be informed by the pilot he relieves what traffic he is likely to meet. As an extra safeguard, the new pilot can receive immediate information through VHF radiotelephone, if he wishes to call Control Centre before his next reporting point.

At present, the system serves in a limited way as a control over ships' movements. Controlling traffic should not be confused with the navigation of ships. The system has not been devised as a method of navigating or manoeuvring ships by remote control from a shore station (vide Part I, pp. 42-44). Masters are reminded that they remain responsible for the safe navigation of their ships. However, the system's VHF network not only provides information but also conveys orders that must be complied with. The St. Lawrence River Navigation Safety Regulations make failure to comply with such an order an offence carrying a fine not exceeding \$500 or in default a maximum 30-day term of imprisonment. Sec. 12 of these regulations reads as follows:

"The master, officer of the watch, pilot or other person in charge of a vessel shall, as far as practicable immediately obey the traffic control orders of a Harbour Master acting within the area of his jurisdiction, an officer of the Canadian Coast Guard, the Royal Canadian Mounted Police or a marine traffic controller."

The validity of this provision regarding the orders given by a marine traffic controller is questionable since neither the term *marine traffic controller* nor the powers of such a person are defined in any regulation. Their case is different from the Harbour Masters of Montreal and Quebec whose functions and powers are defined in the National Harbours Board Act and regulations made thereunder (for Montreal, vide pp. 656 and ff.).

Despite its misleading name, the Marine Traffic Control organization is not intended (at present at least) as a means to effect control of ships' movements on the River. According to Notice to Mariners No. 243 dated March 7, 1969, dealing with the Marine Traffic Control System, the only orders that a marine traffic controller at the Control Centre may give are concerned with the efficient functioning of the service and the nearest approach to traffic control is the provision prohibiting a vessel from entering the system until clearance is granted from the Control Centre, which, in fact, is merely a means of ascertaining the presence of vessels within the system by prohibiting entry without prior notice. The marine controller has no legal authority to withhold or delay clearance. Once a vessel has been granted the required clearance it may proceed at any speed that is not excessive under the circumstances and where desired (except in the area under the jurisdic-

tion of the Quebec and Montreal Harbour Masters). There is nothing authorizing a Control Centre to direct the progress of a ship throughout the system or to prevent her from progressing further.

As an integrated service, the system also provides reliable, fast, long-range radio communications through the VHF network over which to relay the traffic control instructions, requests and information of the Quebec and Montreal Harbour Authorities.

Before the Marine Traffic Control System was organized, the Port Authorities of Quebec and Montreal had operated their own harbour-to-ship VHF radiotelephones for some time. While these radiotelephones worked well within the harbour, complaints were made that their range of transmission was too limited. This inconvenience has now been overcome by using the system VHF network to relay ship-to-harbour traffic. Harbour Masters now receive ETA's and requests from ships within the system and transmit their orders and clearances through the Control Centres. Notice to Mariners No. 243 stipulates that a Marine Traffic Control *clearance* (permission to proceed) i.e., an order so transmitted, constitutes authority for the Master of a vessel to proceed, traffic and other conditions permitting. These clearances are subject to the Harbour Regulations which are repeated in the Notice to Mariners, i.e., a clearance for leaving any berth (including anchorage) automatically expires 15 minutes after it has been granted if the ship has not proceeded, and a new clearance will be required.

As an indirect result of setting up this information service, a reliable and highly efficient means of ship-to-shore and ship-to-ship radio communication has been provided. It is desirable to make additional specific uses for it provided they do not interfere with the efficiency of the information service.

The Marine Traffic Control System is primarily a means of promoting the safety of navigation and was devised as such. Its main purpose is to provide up-to-the-minute information regarding all matters affecting safety, e.g., traffic, weather conditions, obstructions in the channel, aids and failures. This aim was achieved by adopting the *party-line* concept, i.e., all vessels within a sector must be in constant touch with their Control Centre by keeping a listening watch on the sector listening frequency. Thereby, they are automatically aware of the situation within their sector from reports sent by other vessels, routine broadcasts and safety notices. It is on account of the party-line concept that a ship may not switch her radiotelephone to another frequency without first obtaining permission from the Control Centre. For this reason also, it is important that the party-line be restricted to information of value to all listeners.

The Marine Traffic Control System directives provide that the system is not intended to replace other existing radio communication facilities. "No duplex facilities are provided; public correspondence and domestic messages will not be accepted."



Liaison between the headquarters of the Marine Traffic Control System and the related public services to shipping, i.e., Port Authorities, Pilotage Authorities, District Marine Agencies, and the St. Lawrence Seaway Authority, has considerably reduced the need for public correspondence. A vessel no longer has to communicate through a coast station with the District Marine Agency to report faulty aids to navigation because safety reports made to the Control Centre will immediately be relayed to the agency concerned for remedial action. The Seaway Authorities are informed of the approach of vessels bound for the Seaway by the system headquarters and vice versa, thereby relieving these vessels of the necessity of communicating with the Seaway or the Control Centre to report their intention to enter the Seaway or the system.

As seen earlier, ship-to-harbour communications through the system are limited to requests and clearances regarding berthing, unberthing and anchoring. Other official correspondence between ship and harbour must be made through other means. However, although there is no mention of the subject in any official publication, the Control Centre will transmit to a tug company a ship's request for tug assistance, no doubt because it affects the safety of navigation within a harbour. The extent of such assistance is dependent upon the berth assigned, the extent of the traffic and the nature of the prevailing weather conditions in the harbour, information which is provided through the system and which is not available until a ship is about to reach the harbour. The arrangements in effect in the Quebec Centre are that whenever a pilot requires a tug the request is passed immediately to the appropriate tug office from the Control Centre. In the Montreal Centre, the Control Centre asks ships passing Tracy whether tug assistance for berthing in Montreal is required and, if so, the requirement is conveyed by direct line to the tug office.

Similarly, requests for pilotage service are relayed to the Pilotage Authority concerned through the system. This, however, is not mentioned anywhere, as it is believed it should be in Notice to Mariners No. 243. With regard to upbound vessels, it is only stated in an indirect way in Canadian Notice to Mariners No. 30 ('69 Annual Edition) which provides that Masters of vessels requiring a pilot should, when upbound, give a minimum 12 hours' notice of requirement to ensure the availability of a pilot at Les Escoumins. Masters are reminded that if they are unable to communicate with the Quebec Traffic Control on VHF Channel 14, (156.7) they must report to "Pilots, Montreal", *via* any coast radio station, the ETA at Les Escoumins pilotage station. No mention is made how requirements for pilotage service at Quebec, Trois-Rivières and Montreal are to be conveyed; the only provision is that a Master should make his request in time to enable the pilot to meet the vessel. As a rule, a vessel which employs a pilot at Les Escoumins will continue to do so throughout the system, as well as in the

Seaway if proceeding west of Montreal, and vice versa. The Traffic Information Centre at Montreal will transmit information about a vessel's movements to the pilotage offices in order to ensure efficient pilotage despatching. Vessels not equipped with VHF are warned that, since their progress can not be ascertained, they may experience delay while arrangements are made for despatching a pilot. It is considered that the Notice to Mariners describing the Marine Traffic Control System should contain complete instructions for transmitting requests etc. between ships and Pilotage Authorities similar to the procedure laid down for ships and Harbour Authorities to communicate regarding berthing and unberthing clearances. Re the contradiction between Notices to Mariners and Pilotage By-laws defining notice of requirements for a pilot, vide p. 442. Re the details and information such Notices should contain, vide pp. 189-190.

In a letter dated August 20, 1969, addressed to the Department of Transport (Ex.1538(t)), the Shipping Federation of Canada complained about breakdowns of communication in the transmission of notices of requirement for pilots between D.O.T. coastal stations, the system and the Pilotage Authority. It complained that, although a number of their vessels had complied with the 12-hour notice of requirement by addressing a message through a coastal station, they had either experienced, or were threatened with, a 12-hour delay at Les Escoumins pilot station because the message had been lost in the system, and some vessels which had been refused a pilot proceeded to Quebec without a pilot. The Shipping Federation added:

"We have a number of very irate principals and on checking the radio logs ashore and afloat they have every justification to be indignant when penalised for an error not of their volition."

Ship-to-ship radio communications while under way are one of the most valuable modern means of ensuring safety of navigation when meeting or passing, especially during poor visibility, and VHF affords the most efficient short range contact. Since ships' VHF sets must be kept open on the sector listening frequency, radio contact must first be established on that channel.

Ship-to-ship communications are dealt with in only a general, indirect and ambiguous way in the Marine Traffic Control Notice to Mariners when vessels are authorized to give additional navigation safety calls at other locations than the mandatory reporting points, if conditions warrant. Masters and pilots are cautioned that conversation should be kept at the minimum consistent with safety requirements. The present practice which provides for additional ship-to-ship radio communication is not reflected as, in the Commission's opinion it should be, in Notice to Mariners No. 243. As in the past, the pilots use the radiotelephone for ship-to-ship communication when considered necessary during meeting and passing situations. The problem of saturation is ever present. After discussion with the pilots, authorities operating the system have endeavoured to reduce the number of messages being transmitted on the party-line between Control Centres and ships without

lessening efficiency. Pilots are allowed to use the Control Centre frequency when talking to another vessel, provided there is little radio traffic; if this is not the case, the Control Centre requires a switch to the inter-ship frequency for close manoeuvring.

When manoeuvring with tug assistance, the modern practice is to dispense with whistle and horn signals and to transmit orders by VHF. In the harbour of Montreal, Channel 6 is specifically assigned for this type of communication. Similar arrangements exist in Quebec harbour.

#### COMMENTS

The creation of the information service, misleadingly called Marine Traffic Control, is an extremely important advance in the field of assistance to shipping. It is a system which is already highly efficient, despite the fact it is only beginning. Improvements will be made with experience.

However, it is merely a service to assist mariners and its existence does not mean that the St. Lawrence route will be accident-free from now on. Like radar, it will not serve its true purpose unless all parties concerned co-operate, make intelligent use of it and report shortcomings or deficiencies with a view to improvement.

All too often in the past, the pilots individually have adopted a passive attitude and have shown a lack of full co-operation. The inadequacy of earlier radio communications was a regular topic of discussion at the annual meetings of pilots and general complaints were registered, but these lacked supporting details and instances of failure were not reported at the first opportunity so causes could be ascertained and remedial action taken.

The Traffic Control System is based on ability to communicate immediately and efficiently between a Control Centre and all the ships within a sector. Therefore, it is essential that radio equipment should always be in good working condition. Because it is a question of safety, there should be a highly efficient maintenance service for portable radio sets. They should be checked to ensure that they are in perfect working order before they are given to a pilot leaving for an assignment. Any failure should be immediately reported by the pilot to Control Centre through the coast station by the ship's WT or RT transmitters. The Control Centre should report the matter to the District Supervisor of Pilots who should take immediate steps to have each instance fully investigated so that the cause of the failure may be ascertained and the proper measures taken to prevent a recurrence. It is quite possible that the most common cause will prove to be faulty maintenance, a weakness which could easily be remedied, provided failures are investigated immediately and the facts reported to the proper authority.

It is also of the greatest importance that the information provided by the service should be accurate and adequate in order to be reliable and helpful. Pilots and other users of the service should take a very critical but



constructive attitude in this regard. The gathering, compilation and dissemination of information is a complicated process which is always subject to improvement. The best way to assist those in charge of the system and to increase efficiency is to report every single instance where faulty or incomplete information is provided.

Vessels are required to report at check points and on any occasion when the safety of navigation is affected. It is considered that incidents which should be reported immediately by Masters and pilots include violations of the Rules of the Road, Collision Regulations and St. Lawrence Navigation Safety Regulations. Failure to report these violations affecting the safety of navigation results in those responsible continuing to break the rules and regulations until a casualty occurs.

The *breakdown of communications* within the system which a number of vessels have experienced in transmitting notices of requirement for pilots is a very serious matter which demands immediate and effective corrective measures. It was a necessary and progressive step to require that such notices sent through the coastal stations by ships not equipped with VHF be routed through Traffic Control headquarters; on one hand, uniformity of transmission of such notices to the Quebec Pilotage Authority is achieved and, at the same time, entry into the system of a ship which can not comply with the traffic control clearance requirement is notified. However, it should be remembered that by making the system an intermediary between ships and Pilotage Authorities (and also Port Authorities) the Department of Transport has also undertaken the responsibility of ensuring that these messages are transmitted effectively and promptly.

It would be wrong for the Pilotage Authority to take a passive attitude and to penalize vessels in any way, especially when they have been the victims of a system failure. It should be remembered that pilotage is primarily a service to strangers who lack local knowledge not only of the confined waters of the District but also of the ever growing maze of regulations, notices and publications applicable to navigation and pilotage in Canadian waters. It is a duty of the pilotage service both to provide expert navigators to navigate ships and to assist strangers to comply with local formalities and requirements. Since there is no international agreement on the procedure to convey a notice of requirement for a pilot, foreign mariners can not be expected to be fully acquainted with the varying procedures devised in each District to meet local circumstances, mainly to improve the pilots' working conditions. When pilots are not engaged in pilotage duties it is their prime duty to be available at the seaward boarding station when ships arrive. If the Pilotage Authority modifies this arrangement, it should adopt a realistic attitude and take all necessary steps within reason to avoid possible inconveniences to shipping while maintaining full efficiency, even if this means that a reserve of pilots must be kept at the seaward station.

It is only in case of flagrant bad faith or deliberate refusal to comply with the requirement that punitive measures could be adopted, provided these are duly authorized by pertinent legislation, which is not the case at present (Part I, pp. 230 and ff.).

One preventive measure that should be taken is for the Les Escoumins despatching office to ascertain on its own initiative directly by messages through a coastal radio station the pilotage requirements of vessels which have entered the system and have not complied with the notice of requirement, unless they know for certain that a vessel does not employ a pilot. To achieve this, it should be arranged that the Les Escoumins station is informed of the entry of all vessels into the District.

A further remedial measure should be to investigate each instance when a notice of pilotage requirement is not received. The Marine Traffic Control System is based on an array of sophisticated electronic devices which may break down but, since they are operated by human beings, human errors will be the main cause of failure. Both types of failure are most liable to occur during the organizational period. It is only by promptly reporting and investigating each instance of failure that reliability and efficiency can be achieved. If it is found that a pilotage notice of requirement has not reached Les Escoumins pilotage station, the Supervisor should find out from the ship whether or not the notice was filed. If not, the matter should be reported to the Pilotage Authority and it should contact the Master and the agent to bring the procedural requirement to their attention and seek their cooperation for the future. If, on the other hand, it appears that the requirement has been complied with, the Supervisor should report forthwith to Traffic Control headquarters in order that the failure can be investigated immediately, its cause ascertained and appropriate remedial action taken.

As a further precaution, it is considered that a system of double checking should be instituted, e.g., for vessels not carrying VHF equipment the Les Escoumins pilotage station might be required to acknowledge receipt of the notice of requirement through the coastal station network to the ship concerned. If this suggestion is adopted, a provision to that effect would have to be added to the directives from Les Escoumins dealing with notices of pilotage requirement with a request to the vessels concerned to repeat the notice if there is no acknowledgement within a given time, e.g., half an hour.

It is considered that official publications dealing with the Marine Traffic Control System should contain all pertinent information so that users are not obliged to refer to other Notices to Mariners or regulations. If certain provisions are contained in regulations, it is considered that pertinent extracts should be reproduced so that complete information is available in a single document. Hence, it is considered that the Notice to Mariners now in force

(No. 243, dated March 7, 1969) should cover the whole range of pilotage communications that can be effected through the Traffic Control System, thus providing Pilotage Authorities with all the details needed to arrange for the proper despatching of pilots until ships are out of the system or have reached their destination within the system. The Notice to Mariners should list the requirements for requests for a pilot for ships upbound from the Gulf, ships downbound from the Seaway or requiring a pilot when leaving a berth or an anchorage, either for a moveage or a trip upbound or downbound within the system. Since pilots are assigned to ships by grade, the publication should list the particulars needed by the Pilotage Authority, e.g., tonnage, class, disabled ship and composite navigation units.

The procedure for using VHF radiotelephone for ship-to-ship communications when passing or meeting should be fully described, bearing in mind that the unwritten rules devised by the Traffic Control Authorities and the pilots remain unknown to a considerable number of ships on the St. Lawrence, i.e., those who do not employ pilots.

If effect is given to the Commission's suggestion (p. 189), the Notice to Mariners should also state that pilots are permitted to communicate prior to boarding with the ships to which they are assigned in order to obtain all the pertinent information they should have about ships' characteristics and shipborne aids to navigation, and should describe the procedure to be followed. This procedure should be similar to the one unofficially adopted for ship-to-ship communications.

### (iii) *Telecommunications*

Since telecommunications were first instituted the Department of Transport has maintained as a service to shipping a network of marine radio stations for the purpose of promoting safety and facilitating ship movements. Vessels were also allowed to take full advantage of this ship-to-shore means of communication; hence, the secondary purpose of the network became the exchange of private and public correspondence. Except for official correspondence, the marine radio stations served as a relay between ships and commercial telegraph and telephone companies.

At the time of the Commission's hearings, the D.O.T. marine coast radio stations were the sole available means of ship-to-shore communication. Since then, as seen earlier, for the section of the River extending from Sept-Iles to Montreal, the public service function of the coast radio stations has been partly superseded and duplicated by the VHF network of the Marine Traffic Control System. It is assumed that for that section of the River it will be completely replaced in that function, except as an alternate means of communication in case of VHF equipment failure, as soon as it



becomes mandatory for ships to carry VHF radiotelephone. In the meantime, since a number of vessels do not yet carry this equipment, the coast radio stations covering that part of the River must continue to provide safety information through Notices to Shipping and weather broadcasts. They must also continue to handle that part of the official correspondence which is treated as an accessory service by the Marine Traffic Control System, e.g., requirements for pilots and pratique, and requests and instructions regarding berthing in the harbours of Quebec and Montreal. They are the sole means of transmitting radio correspondence for other ports and berthing places.

Beyond that section of the River covered by the system, i.e., east of Sept-Iles and on the Saguenay River, and inside the system for ship-to-shore correspondence not permitted on the VHF network, the coastal network remains the only available means of ship-to-shore radio communication.

The advent of ship-to-shore telecommunications has considerably affected pilotage; it has, *inter alia*, made it possible to provide a more efficient and less costly organization while at the same time substantially improving the pilots' situation. However, the statutory provisions governing pilotage have not been modified, with the result that they are now obsolete and totally unrealistic and that the practice being followed is illegal, although warranted (vide Part I, p. 230).

In earlier days when there was no quick system of communication, the pilots had no way of knowing in advance the time any vessel would arrive and their first intimation was when the vessel appeared on the horizon. They never knew how many vessels would call in a given day nor at what time any particular one would arrive. Then, as now, it was the pilot's responsibility to make himself available and it has always been the rule that a vessel should not be kept waiting for lack of a pilot. Therefore, the system at that time was for the pilots to remain at the seaward station during the whole of the navigation season, except when they were on duty aboard a vessel. They were permitted to stay at Quebec between assignments for a limited time only, after which they were required to return to the seaward station. There the pilots were not allowed to remain ashore until vessels appeared but, in order not to delay shipping, some pilot boats had to cruise constantly in the boarding area with pilots aboard prepared to embark them in upbound vessels with the least possible delay or to disembark other pilots quickly from downbound ships.

With the advent of telecommunications, the pilots' lot was improved greatly for advance information about ship arrivals (ETA) enabled them to plan their services so that they no longer had to cruise constantly at the boarding station. Pilot boats had to proceed only when it was known that vessels would arrive and they had to carry only the necessary number of pilots. A system of assignments could be drawn up and a pilot could stay with his

family between assignments. The basic system of despatching was no longer on a round-trip basis but despatching was performed at both ends of the District, i.e., at the seaward station and at Quebec.

Telecommunications also proved to be most helpful to the pilot in the performance of his duties for he could obtain advance information about the weather and the traffic to be expected, and prior to his arrival he could make arrangements regarding berthing.

Since the ship-to-shore service is an aid to navigation, it is a responsibility of the Department of Transport. In view of the existence in the Department of a highly developed service of a similar nature for ground-to-air communications, the organization, maintenance and manning of the necessary stations for the maritime service was entrusted to the Department of Transport branch responsible for the aeronautical service: the Telecommunications and Electronics Branch, Air Services. Similarly, at the local level this responsibility does not come within the jurisdiction of the District Marine Agent but under the Regional Controller of Telecommunications and Electronics, whose duties are to attend to aeronautical and marine communications and, to a certain extent, commercial telecommunications as well.

The radio stations operated for the marine service are also referred to as coast or coastal stations. Their primary duty is marine safety and their secondary duty correspondence. The safety service has precedence.

The safety service comprises the dissemination of general distress communications, emergency and safety signals, weather broadcasts prepared by the meteorological branch of the Department of Transport, Notices to Shipping and other information which is of assistance to mariners in general. The public correspondence service includes person-to-person telephone service with the shore, commonly called the duplex service.

This service operates on wireless telegraph (WT) and radiotelephone (RT). The RT system uses both high frequency (HF) and very high frequency (VHF). HF has greater range but its efficiency is often reduced by interference; VHF is limited to propagated line of sight but is free of interference.

At the time of the Commission's hearings, WT reception throughout the District of Quebec was very good but it is not normally resorted to since the procedure is cumbersome and slow and forces a pilot to use an operator as an intermediary. Many vessels were equipped with radiotelephone working on HF and VHF frequencies. For lack of close range VHF land-based stations the VHF radiotelephone could serve only for ship-to-ship and ship-to-harbour communications at relatively close range. There were many areas in the District where ships were without any radio communications on account of interference which prevented HF radio communication with the existing coastal stations network.

Like other aids to navigation, the Marine Traffic Control Service and the coast station safety service, i.e., distress, urgency and security messages from ships, are without charge. In the public correspondence service the ETA's and notices of requirement for pilots addressed to Pilotage Authorities are also free of charge.

For telecommunication purposes the Quebec Pilotage District is part of the territory of the Regional Controller of Telecommunications and Electronics whose office is in Montreal, the headquarters for the province of Quebec which the Department of Transport calls the Quebec region. The coast radio stations in this area are located at Montreal, Trois-Rivières, Quebec, Mont-Joli, Fox River on the eastern tip of Gaspé Peninsula, and Sept-Iles. In 1963, one additional station was under construction at Rivière du Loup.

Some years before, there was a radio station at Pointe Noire at the entrance to the Saguenay River which had originally been installed in the lighthouse to be used instead of land telephone as an internal means of communication for the *Signal Service*, i.e., for reporting ships' movements in and out of the Saguenay River. It was not an official radio station and was not operated by the Telecommunications Branch, but was extensively used unofficially by ships simply because it so happened that it was located where ships passing through radio communication "dead zones" (i.e., they could not reach either Quebec or Mont-Joli) could easily reach Pointe Noire. It proved to be of great assistance providing up-to-the-minute information about weather conditions at the entrance to the Saguenay and was also used to a great extent for public correspondence by the personnel of schooners who sent messages to their families through Pointe Noire rather than through Mont-Joli because the latter was farther away. By rendering these extra services to shipping the station was actually operating outside the scope of the regulations governing radio coast stations. When the pilot station was moved from Father Point to Les Escoumins and radio facilities at Rivière du Loup were improved, the need for RT service at Pointe Noire diminished and it was then decided to close the station (Ex. 1461(c)).

Although the pilots and the shipowners protested at the time, it appears that they soon became accustomed to operating without it, presumably because they could obtain the required information and services from other stations. Its replacement was not advocated before this Commission.

The coast stations in Montreal, Quebec, Mont-Joli and Sept-Iles are located at the airports in these cities. They handle both air and marine traffic but a different operator is assigned to each type of communications.

With no intermediate station between Mont-Joli and Quebec—a distance of about 190 miles—communications proved to be inadequate and at times totally non-existent for vessels in the Saguenay River or the North Channel except when they were in the vicinity of Orleans Island. Such a gap



in communications not only increased the hazards of navigation, because vessels in those areas could not receive safety warnings and weather broadcasts, but also greatly reduced the efficiency of the pilotage service and caused shipping much inconvenience. Although the cause of this situation and the solution to the problem had been known for many years, it was only recently that corrective measures were taken after renewed protests.

The efficiency of radio communications depends on various factors: type of frequency HF or VHF, capacity of equipment ashore and afloat, volume of traffic on available frequencies, interference and peculiarities of surrounding land. VHF communications are limited in range to line of sight. The strength of the radio signal on ordinary frequencies is affected by weather conditions and in daylight the difficulties of transmission increase with distance. While these can be overcome by the output strength of the transmitter, the sets carried by ships are frequently low powered. Radio communications in the Saguenay area are extremely difficult because of the mountainous terrain and between Les Escoumins and Orleans Island (especially in the Brûlé Bank—Ile aux Coudres sector), the Quebec station can seldom be heard or reached. The mass of metal in the Quebec Bridge interferes with HF communications in the vicinity but VHF is unaffected.

The Commission was informed that electronic developments and modern equipment make it possible to overcome the transmission difficulties arising from a combination of unfavourable terrain and the low powered radio sets which many ships carry by relocating antennae, establishing satellite stations and selecting the most favourable sites for new radio stations.

Before radar, vessels usually slowed down and anchored when visibility was substantially reduced. Time was not so important then, vessels were smaller and slower and even in clear weather it was frequently considered preferable to anchor and wait for a favourable tide rather than stem an adverse current and make barely any progress over the ground.

Since fast, reliable radio communications were not as necessary then as they are today, Masters and pilots became accustomed to unsatisfactory communications and took them for granted. When difficulties were encountered, no details were recorded and no report was made. When complaints were made, they were usually of a general nature and registered at the annual meeting of the pilots, as was illustrated, *inter alia*, by the testimony of pilot Edmond Pouliot. On June 5, 1963, he was piloting S.S. *Sylvia* from Port Alfred to Quebec. At 11.30 p.m. or midnight, when he was about five miles east of Cap Brûlé, he began trying to communicate with the Quebec radio station to give his ETA so that a relief pilot could be available at Quebec for the trip to Montreal. He was unable to establish communication until about 1.15 a.m., only some forty minutes before arrival, when the ship was between St. Jean, Orleans Island, and Quebec. He had tried every five minutes, on both VHF and HF, he was certain that his set was working

because he succeeded in communicating with another ship and was told that his signal was loud and clear. However, he did not register a complaint when he finally reached VCC Quebec.

In mid-July 1962, he also had difficulty with radio communications when aboard M.V. *Irvingglen*. He was expecting an order about berthing in Quebec but it never reached him, with the result that unnecessary delays were incurred when he was obliged to anchor, proceed to the pilots' office to receive his orders and come back to berth the ship. He does not know what went wrong, whether it was the Quebec station or the set in the ship but, once again, he did not make a report or carry out an investigation.

Another pilot testified that he had experienced difficulty contacting Quebec between 1.00 a.m. and 5.00 a.m., i.e., during the night shift. Once, in 1961, he was obliged to berth a Swedish ship without the aid of a tug because he had been unable to contact Quebec by radio at night to order it. He made no direct complaint except at the pilots' general annual meeting when radio communications were discussed.

The Commission's Nautical Adviser, the late Captain J. S. Scott, had an opportunity to verify and confirm the inadequacy of the radio coastal network during one of the survey trips he made for the Commission. On June 30, 1963, he proceeded upriver from Les Escoumins on board the new Yugoslav M.V. *Metohija*. He reported as follows (Ex. 1538(s)):

"Coming upbound from Escoumins to Quebec aboard the Yugoslav vessel *Metohija*, the radio operator reported inability to raise Quebec Radio in order to obtain the vessel's Radio Pratique. He called from about 1200 to 1800. The pilot commented that the lack of radio pratique would cause a serious delay at Quebec and advised the master that it would be necessary to adopt other measures. Accordingly—when passing St. Jean, he ordered the Pratique flag to be hoisted, also the Pratique signal lights—and when passing the lighthouse he blew several resounding blasts on the ship's whistle. All of which was intended to convey to the lighthouse keeper that he should telephone the radio station. This was effective and within ten minutes of passing St. Jean, the ship's operator appeared on the bridge with the required radio pratique. Thus was it necessary for an anachronism to activate a modernism."

One of the reasons why these difficulties occurred was the lack of sufficient operators at the Quebec station. Mr. J. Emile Cloutier, who was employed by the Marconi Company (which operated the telecommunications system until 1957 when it was turned over to the Department of Transport on lease) and retired as Assistant Operator of the Quebec station in 1960 after 21 years' total service, observed that, in 1960, there were five operators to keep the Quebec station in operation 24 hours a day. He estimated that his personnel were insufficient to meet demands even on an ordinary day. At that time there was only one position in service, i.e., only one operator on duty at a time. The operator on duty was overworked and could not keep up with the traffic. He had to neglect some channels because he could not attend to five different circuits at once, especially when passenger vessels going up-

river sent many long messages, some in code, which had to be retransmitted. However, the calling frequency was always left open at volume in case of distress or accident, with the result that the other channels had to be turned down. Under these circumstances, a ship's call would remain unanswered as long as the operator was busy on other work which, at times, might take up to half an hour.

Complaints became more vigorous and more numerous as the need for an adequate, reliable system to meet modern navigation conditions became increasingly evident. As the majority of river schooners acquired efficient telecommunication devices their Masters joined their complaints and requests to those of the pilots.

In various resolutions passed at Corporation meetings from 1957 to 1963, the pilots requested the Department of Transport, *inter alia*, that appropriate steps be taken to ensure adequate radio communications between River traffic and station VCC Quebec, that a traffic control system be established in the harbour of Quebec and that all Department of Transport radio operators on the St. Lawrence River and Seaway be bilingual (Ex. 584).

Remedial action was taken progressively. Around 1960, a survey was made from Montreal to the Gulf to measure the field strength of transmissions from the coastal stations in that section. However, the Saguenay River was not surveyed. It was shown that, east of the Island of Orleans as far as the entrance to the Saguenay River, transmissions were made difficult by geological features such as iron ore deposits. The Lauzon shipyards interfered severely with the main coastal station, which was then situated on the high grounds at Lauzon, and it was relocated at Ancienne Lorette airport. In addition, field surveys were made to find better locations for transmitting and receiving antennas. As a result of these surveys, it was decided to add receiving stations at St. Michel, some 15 miles downstream from Quebec, and at Rivière du Loup. The latter was delayed by the Federal austerity programme in 1961.

On July 18, 1961, the Regional Superintendent reported to the Superintendent of Pilotage in Ottawa that he had investigated why a number of upbound vessels had reached Quebec without sending an ETA. He found that, in the vicinity of Goose Cape, radio communications with the Quebec station broke down. The matter was referred to the Telecommunications Branch for temporary remedial action until the Rivière du Loup station was constructed because the situation was causing the Quebec pilotage station serious administrative difficulties. Some improvements were achieved when the receiver aerials were relocated.

On May 9, 1962, the pilots were still complaining, despite the fact that a second marine position had been opened in the Quebec radio station to take care of the possibility that the delay in answering a call might be due to lack of personnel. The pilots' complaints were investigated and proved



founded. Remedial action was taken and a marked improvement was noticed but, at times, some difficulties were still experienced between Ile aux Coudres and Cap Brûlé.

In July 1963, the MAYDAY message of the sinking *Roonagh Head* was not received by the Quebec station, but was relayed by a station in Boston.

As of September 15, 1964, the Rivière du Loup station was still not in operation. The tender for its construction had been accepted July 23, 1964, and completion of the station was expected in 1965. However, as mentioned earlier, the Quebec station had two operating positions around the clock. A new transmitting satellite had been established at St. Michel and a new receiver satellite had been established at Beaumont: both were expected to be in operation soon. Their object was to improve communications with the Cap Brûlé area. In addition, a second operating position was established at Mont-Joli at the beginning of the 1964 season to take care of any possible delay caused by the operator being overworked.

The Rivière du Loup station was finally opened and in a brief to the Deputy Minister dated August 30, 1965 (Ex. 1461(n)) the Quebec pilots remarked that they had observed a definite improvement in radio telecommunications in the Quebec Pilotage District.

#### COMMENTS

This situation, which was formerly so highly unsatisfactory, has been resolved. The HF network of the marine radio coast stations has been improved and now provides satisfactory communications throughout the District. However, the greatest single improvement was the establishment of the Marine Traffic Control System which now offers an efficient, speedy and reliable means of communication for ships carrying VHF equipment in matters affecting the safety of navigation and the quick despatch of marine traffic.

#### (6) WINTER NAVIGATION

Winter navigation on the St. Lawrence is not new. In 1932, Sir Alexander Gibb stated in his report (Ex. 1465, pp. 111-112): "From records it appears that there is, in fact, no part of the winter in which, in one year or another, ships have not arrived at or sailed from Quebec". At that time, however, after studying the question he recommended against the development of the St. Lawrence winter route at public expense:

"It is certain, however, that the cost and labour of maintaining access to the sea would be wholly disproportionate to the advantages. Risk of dangers and delays would be very great, particularly during snow storms, which come on with extreme suddenness and last for twenty-four hours and longer.

The evidence that is put forward is of exceptionally favourable rather than normal conditions; and omits all consideration of the worst conditions. There is,

in my opinion, little likelihood of the St. Lawrence ever being recognized either by shipping or insurance interests as a regular winter route. It would, in fact, only be to hazard the reputation of the St. Lawrence route, to invite ships to use it under what must always be difficult and dangerous conditions”.

Until recently, the situation remained unchanged, but during the last decade an increasing number of vessels have been strengthened for operating in ice and others have been specially built for the trade. Winter navigation, although on reduced scale, is now a fact, as far as Montreal but not beyond because the Seaway is closed.

The winter navigation season is divided into four periods:

- (a) the end of the normal navigation season when ice is forming and floating aids have been removed but a large number of vessels which are not reinforced for ice remain in the District;
- (b) the winter season properly speaking when navigation can be attempted only by vessels reinforced and fitted for operations in ice;
- (c) the end of the winter, similar to period (a), when ice remains in the River and floating aids have not yet been installed but a large number of vessels which have not been strengthened are in the District;
- (d) a short period which occurs during period (c) when between Quebec and Montreal navigation is prohibited in restricted sections of the channels for all types of vessels. This is the run-off period when thick, heavy, bank ice floes separate from the shore under the influence of lower temperatures and high tides and enter the channels. During this period, vessels must stay clear of confined areas for a few days until the floes pass by.

Between December 1 and April 8, quite large quantities of ice are encountered in all channels and visibility is often reduced by snowstorms and blizzards. The situation is aggravated by the fact that only the minimum number of aids to navigation is in operation. The few floating aids available—winter spar buoys—are not lighted and can not be relied on because frequently they have been submerged by the ice and are not seen. If they are in view, their location can not be relied on because they are liable to be out of position. Masters and pilots must depend almost entirely on clearing marks and shore-based aids. The difficulty of locating a land-based beacon or mark against a white background in winter has been remedied by painting them a flaming phosphorescent orange colour.

Usually, all shore-based aids are kept in full operation during period (a), i.e., until the end of December. In period (b), i.e., from January 1 to March 31, some are completely extinguished or unattended and, hence, out of service, except when the passage of a vessel is expected, as will be described later.

Navigation in ice—especially in confined areas—is dangerous, if not impossible, unless performed by mariners accustomed to such conditions and experienced in the problems likely to be encountered. Navigation in ice is a special technique and the most important factor is whether the vessel is built for the purpose.

A ship not reinforced for ice would normally avoid going through an ice field by going around it if sea room permitted. However, when a ship must go through ice, speed is reduced to slow before entering the field to ease the impact on her unprotected sides and it is only when she is well into the ice that the engines are put full ahead to force a way through. When heavy concentrations of ice are met in restricted channels, it is preferable to leave the channel until the situation has improved. Anchoring in ice is accompanied by certain risks for there is always the danger of being shifted by the ice field and the officer of the watch must keep track of the ship's position at all times. Occasionally, when the ice is drifting, the ship's engines have to be used to keep the vessel in position.

There is always a possibility that the ice will take charge, even of a ship specially built for winter navigation. Nearly every season ships are immobilized in an ice field on the St. Lawrence and drift up and down for hours. The pilots have had this experience in the past, especially between Cap Brûlé and Cap Martin. Even icebreakers are trapped at times.

The collision between M.V. *Prins Mauritz*, 2136 NRT, and the bulk carrier M.V. *Middlesex Trader*, 8930 NRT, off St. Nicolas on April 6, 1965 (Ex. 1470(c)) illustrated the special hazards encountered during winter navigation.

The accident occurred at the end of the winter season but not in the run-off period, properly speaking. However, huge fields of ice were to be expected. In accordance with the Montreal District By-law, two pilots were on board each vessel, both of which were upbound through broken ice. At the western end of the St. Augustin bar the leading ship, *Prins Mauritz*, encountered a large field of ice which blocked the river and stuck fast in it. The assistant pilot immediately contacted *Middlesex Trader* previously observed some 2 miles astern, and reported their predicament over the VHF radiotelephone. The message was acknowledged by *Middlesex Trader*. *Prins Mauritz* lay in the ice pack off the port bow of *Middlesex Trader* outside the channel to the south. *Middlesex Trader* was kept at full speed ahead and on a course estimated to pass the other vessel at a distance of about 800 feet but when she entered the ice field she suddenly sheered to port and, despite the orders "hard-a-starboard" and "stop engines" followed by "full astern", *Middlesex Trader* collided with the immobilized *Prins Mauritz*.



At a preliminary inquiry held the day after the collision it was found that the pilots on board *Middlesex Trader* were faced with a situation which required not only good judgment but an immediate decision. The investigating officer reported:

"It was impracticable to turn back, due to the narrowness of the channel, and unsafe to remain there and run the very real risk of being caught in this drifting, solid ice. In short, the *Middlesex Trader* could only continue and it became a matter of whether to proceed at full speed, in the hope of breaking through the ice ahead, or of reducing speed and risk becoming trapped in ice as was the *Prins Mauritz*.

Since the *Prins Mauritz* was clear of the channel, it was decided to continue at full speed in the belief that the larger *Middlesex Trader* would succeed where the smaller vessel had failed.

On striking this heavy ice, however, the *Middlesex Trader* sheered to port and then moved bodily in that direction, notwithstanding starboard helm, until she struck the *Prins Mauritz* a glancing blow. The *Prins Mauritz* was about 800 feet clear of the channel at this time. The slow engine response astern doubtless contributed to the accident, nor is there any evidence to show that this weakness in her manoeuvring capabilities had been made known to the pilots.

It is submitted for your consideration that this casualty was due to the natural hazards attendant upon navigation in ice, and that these conditions are to be expected by ships undertaking winter navigation in confined waters. Under these circumstances, I recommend that no further action be taken."

These recommendations were concurred in and no further action was taken.

#### (a) *Ice Advisory Service*

Up-to-the-minute knowledge of the ice situation along the possible routes, of weather conditions and of the position of other vessels, plus the likelihood that an icebreaker will be available for assistance in an emergency, may mean the difference between a dangerous, almost impossible venture and a relatively easy one.

Such information and assistance is now provided by the Ice Advisory Service organized and operated by the Department of Transport. The service first covered only the Gulf area, but now covers the whole of the eastern coast up to Hudson Bay and the St. Lawrence River as far as Montreal.

This free, non-compulsory service is placed at the disposal of shipping. The nature of the service, the requirements and the procedure are set out in a pamphlet, issued in 1966 by the Department of Transport, entitled "Guidance to Merchant Ships Navigating in Ice in Canadian Waters". This pamphlet replaced an earlier one issued in 1962 entitled "Guidance to Merchant Ships Navigating in the Gulf of St. Lawrence in Winter". In addition, this pamphlet gives further information and advice regarding winter navigation such as warning vessels not strengthened for operations in ice to proceed at reduced speed; for all vessels to avoid being caught between an ice edge of an extensive pack and the shore or shoaling area with a strong on shore wind;

from going astern in ice which would expose rudder and propeller to damage. It also describes, *inter alia*, how a ship caught in ice is to be assisted, and the escort and convoy procedure.

(b) *Winter Navigation in the Gulf of St. Lawrence*

Winter navigation in the Gulf of St. Lawrence is directed from the Ice Operations Office at Sydney, Nova Scotia. Icebreakers on station and regular air patrols report on the ice situation and these data are collected in Sydney. Vessels are informed by radio broadcast and by charts which show both observed and forecast ice conditions. These charts are broadcast by facsimile from coastal radio stations to ships at sea. Immediate information in a given area may be obtained by calling an aircraft direct.

Commencing December 15 and until ice in the Gulf is no longer likely to hinder shipping, the Master of every ship bound inward to the Gulf is requested to advise the Ice Operations Office at Sydney, N.S., 36 hours prior to entering Cabot Strait stating vessel's position, destination, whether loaded or in ballast, ice class, if any, and classification society. Masters of ships outbound from Baie Comeau or from a port east of it are requested to give a similar 36 hours' notice of expected time of departure; Masters of ships sailing from Quebec or other port west of Baie Comeau are requested to give 24 hours' notice.

The Ice Information Officer will then assist the vessels by providing a suggested navigation track to each of them and furnishing thereafter the necessary up-to-the-minute information. Icebreaker service will be provided free of charge when the Officer-in-Charge considers it desirable and, if circumstances permit, priority being given to well trimmed ships which are strengthened for ice. If ice conditions are very severe, convoys will be organized with an icebreaker leading.

The service depends on the availability of constant, immediate radiotelephone communications. It is essential for all vessels to be fitted with VHF radiotelephone transmitting and receiving equipment on the bridge. For purposes of escort, for instance, ships so fitted are given priority over other ships. Operators must be fluent in either English or French.

As seen earlier, the Gulf area is covered by a Decca network and full use of it is made by the Ice Advisory Service to gather information and plot the position of ships and aircraft engaged in the service. It is recommended that vessels using the service be also equipped with a Decca navigator so as to be able to report their position accurately and to plot the location of the proposed tracks and the reported positions of other ships, icebreakers and aircraft.

(c) *Winter Navigation on the St. Lawrence River*

Ice information facilities were extended to the section of the St. Lawrence between Sept-Îles and Montreal when an Ice Information Office was

established at Quebec, in January 1967. Up-to-the-minute information on weather and ice conditions is obtained from observers, icebreakers and aircraft patrols. Icebreaker assistance is given when the Officer-in-Charge considers it desirable and if circumstances permit. The situation with regard to the section of the River extending from the Quebec Bridge to the port of Montreal will be studied in Section Three of this Part dealing with the Pilotage District of Montreal.

The extension of ice information facilities to the St. Lawrence River demonstrates official recognition of the increasing importance of winter navigation and now provides a necessary and long awaited service which has satisfied most of the pilots' complaints.

Prior to 1967, Notices to Mariners issued each fall warned vessels that, if they sailed in winter between Les Escoumins and Montreal, it was at their own risk, that navigation was not controlled in winter, there would be no convoy arrangements and no icebreaker assistance would be given except in case of distress.

However, where ice was liable to block the channel, land-based ice observers gathered up-to-the-minute information which was made available to all concerned from the District Marine Agent's office and by regular radio broadcasts.

The only ice observers in the Quebec Pilotage District were two men stationed along Coudres Passage on a part-time basis. There was no special arrangement between Goose Cape and Les Escoumins but, except in very severe winters, ice in that area presents no problem. In addition, general observation on the lower part of the River was carried out from the Mont-Joli air base by air reconnaissance patrols of the Meteorological Branch, Department of Transport, which acted in conjunction with the air patrols over the Gulf (Ex. 1456(v)).

In a brief dated August 30, 1965, addressed to the Deputy Minister of Transport (Ex. 1461(n)) the pilots protested against what they felt was a very unsatisfactory state of affairs on the St. Lawrence River as far as winter navigation was concerned. They pointed out that as pilots they were obliged by a Crown Agency—the Pilotage Authority—to perform pilotage during the winter months and that they had co-operated fully. They were distressed, however, to find that during the period when navigation was most difficult and at times extremely dangerous they were not provided with additional assistance by the Department of Transport but, on the contrary, aids to navigation were reduced, weather and ice information was almost unavailable and icebreakers were prohibited from helping vessels, even in distress, unless specific permission was obtained from Ottawa.

They further pointed out that since no tugs were available at Quebec in winter, berthing was very difficult and dangerous under winter conditions.



However, since there was no pilot vessel service for ships in transit, they were obliged to resort to this dangerous procedure for the sole purpose of changing pilots.

They added that winter navigation as far as Montreal was now an established fact and that the traffic was steadily increasing from year to year.

The Department of Transport reported that following the receipt of the pilots' 1965 brief (Ex. 1461(n)) the Assistant Deputy Minister (Marine), with Departmental officers, met representatives of the pilots on October 25, 1965. All the pilotage problems raised in the brief, including the subject of winter navigation, were discussed in detail. The winter pilot vessel problems at Quebec and Trois-Rivières stations were satisfactorily settled. The pilots were assured that icebreakers would be ready to assist ships in imminent danger because of ice or other reasons and that steps were being taken to employ the staff of the pilotage offices in the St. Lawrence areas on a year round basis. This has since been done.

At a further meeting held on November 3 to discuss the specific items relating to winter aids to navigation mentioned in the brief, conclusions satisfactory to all were reached (Ex. 1461(q)). As far as the Quebec Pilotage District is concerned, the situation has been further improved since by the extension, as aforesaid, of the Ice Advisory Service and the creation of the Marine Traffic Control System.

The South Channel is not used during the winter since it is almost certain to be blocked because the channel is shallow and the ice tends toward the south shore of the river, particularly in the vicinity of Crane Island and Goose Island.

#### (d) *Winter Traffic Statistics*

The Shipping Federation of Canada stated in its annual report that, although the winter of 1961-62 proved to be of the utmost severity, navigation through the Gulf up to Baie Comeau proceeded without interruption. The season was also successful on the River and ships specially equipped for ice conditions maintained regular schedules.

The Department of Transport report entitled "Gulf of St. Lawrence and Eastern Canadian Seaboard Ice Operations, winter 1962-63" (Ex. 1310) concluded that the season was generally a success. Export and import tonnages reached 2,700,000 tons (almost double the total of 1960-61) due to increased shipments, mostly of iron ore, grain and aluminum. It was observed that commercial vessels were co-operating much better than in previous years by reporting to Sydney before entering the Gulf. The only two vessels which failed to do so were caught in the ice and had to be freed. It was also reported by the Commanding Officer of Ice-breakers that Masters of merchant ships appeared more confident while navigating in ice. In several cases they were willing to proceed unescorted under conditions where, in former years, they would have demanded ice-breaker support.

Since then, successful and safe winter navigation has been maintained in the Gulf area with the efficient information and assistance provided by the Department of Transport Ice Advisory Service.

Although winter traffic on the St. Lawrence between Les Escoumins and Quebec has greatly increased in recent years, statistics indicate that it is not large when compared to traffic during the normal navigation season. This is explained by the fact that winter navigation is confined to the comparatively small number of vessels strengthened for operations in ice or specially built for the trade.

Statistics for the winter navigation season (Ex. 1464(f)), as defined in the District By-law, i.e., from December 1 to April 8, give the following information:

Winter Navigation Season	Total Movements Upbound and Downbound between December 1 and April 8	Downbound Movements between December 1 and December 28 (4 weeks)	Total Movements Upbound and Downbound between December 29 and March 28 (13 weeks)
1959-60.....	299	186	37
1960-61.....	242	133	24
1961-62.....	285	160	47
1962-63.....	300	167	49
1963-64.....	510	236	71
1964-65.....	438	223	85
1965-66.....	496	174	148
1966-67.....	519	164	182
1967-68.....	572	155	251

These statistics indicate, *inter alia*:

- (i) Winter traffic increased gradually and considerably between 1959 and 1968 but still accounts for only a small fraction of the total traffic, e.g., 1967-68 winter traffic, including the end of normal season downbound traffic, accounts for 6.8 per cent when compared to the total 1968 trips (vessel).
- (ii) A large percentage of the so-called winter traffic is still composed of regular vessels hurrying out of the District at the end of the normal navigation season, i.e., between December 1 and December 28, and the early comers at the end of March and beginning of April. Up to 1964-65, downbound movements alone accounted for more than 50 per cent of the so-called winter traffic. This percentage has since decreased to 27.1 per cent in 1967-68.

- (iii) True winter traffic, i.e., vessels specially built or reinforced for winter navigation, used to be only a very small percentage of the total winter traffic. This percentage has increased considerably in recent years due to the larger number of such ships, rising from 12 per cent in 1959-60 to 20 per cent in 1964-65 and 44 per cent in 1967-68. This trend is expected to continue as more special ships come into service and constant improvements and increased assistance are provided by ice surveys, traffic control and ice-breaker assistance when necessary.

## 2. NATURE OF PILOTAGE SERVICE

### (1) NATURE OF THE SERVICE

The pilotage performed in the Quebec District is mainly river pilotage together with berthing and unberthing those ships which are not in transit. There are very few movages or other harbour manœuvres.

Clarke Steamship Company Limited, a shipowner and operator conducting transportation services on the coastal and inland waters of Canada, expressed the opinion in its Brief (Ex. 1345) that the River is generally wide and deep between Quebec and Les Escoumins and the need for pilots is not great. It pointed out that this fact is recognized by the Pilotage District By-law which exempts British vessels up to 2,000 net tons from the compulsory payment of dues, and noted that until recently this exemption amounted to a general exemption because the range of general cargo vessels was less than 2,000 NRT.

However, it appears from the evidence that shipowners do not allow their vessels to sail in Quebec District waters unless their navigation is entrusted to a person who is well acquainted with the navigational features and difficulties.

Pilot J.L.M. Dussault reported that during his apprenticeship period, 1955 to 1957 inclusive, he had the permission of the Superintendent of Pilots to perform "pilotage duties" regularly both in the District and in various lower St. Lawrence River and Gulf ports. Since it would have been illegal—even for an exempt ship—to employ an unlicensed pilot within the District limits (Part I, p. 207), the difficulty was circumvented by the device of signing him on the vessel's articles as Sailing Master each time he embarked, thereby making him an officer of the ship. When his pilotage services were terminated, he was discharged from the ship, only to repeat the procedure and become a member of the crew of another ship for a few hours, and so on (vide Part I, p. 541).

The status of the Sailing Master is undefined. He was neither the Master nor a pilot nor a permanent officer. He ranked somewhere between the First Officer and the Master. When employed as Sailing Master, pilot



Dussault's main function aboard was pilotage and he remained on board for only a stated part of the trip, generally embarking at Quebec to pilot the ship down to her destination. He came back to Quebec in the same ship unless she was engaged in an ocean voyage. His services aboard were not used in the open stretches but only when there was some difficult passage to negotiate or when the ship was entering a port.

He was not employed as Sailing Master for one particular shipping company but for many ships and by various agents. Most of the Canadian ships he piloted in this fashion belonged to Canada Steamship Lines and were employed in the pulp trade between Godbout and other St. Lawrence ports and Great Lakes ports.

Pilot Roland Barras was similarly engaged during his long apprenticeship. For four years he was a non-official pilot for the Canada Steamship Lines passenger vessels.

Non-exempt ships did not resort to the device of employing a Sailing Master but always used licensed pilots because they were required to pay pilotage dues in the District. But when a ship proceeded east of Father Point, anyone could be employed as a pilot without signing on as a member of the crew since the waters east of Father Point are not contained within the limits of any Pilotage District; he was then considered a coastal pilot.

Pilot Dussault stated that before 1960 other pilots were employed as Sailing Masters and, in addition, coastal pilotage was performed by some Quebec District licensed pilots who more or less competed with the unlicensed pilots. In fact, much of the pilotage work he obtained was given him by a licensed pilot who did not wish to proceed outside the District. However, many licensed pilots simply carried on into the Gulf with their ships. This is no longer so because the practice was forbidden by the Pilotage Authority around 1960 and the pilots now perform no duties outside the District.

Unorganized coastal pilotage is reported to have virtually disappeared now that various commercial ports of the lower St. Lawrence, i.e., Port Cartier, Sept-Iles and Baie Comeau, have their own harbour pilots.

Before pilot Dussault became a pilot he served as a Master in ships plying the St. Lawrence. At that time it was his practice to employ a pilot "where the law said so" but otherwise to dispense with a pilot. He pointed out that one of the conditions of employment was that a Master would do his own piloting on the lower St. Lawrence.

In pilot Dussault's opinion a Master can navigate a ship through the Quebec District without a pilot as long as he has the requisite knowledge and takes adequate precautions, but in his experience ships gain in speed and safety when a pilot is employed. "The basic reason for employing a pilot is to put your ship in safer hands and in speedier hands".

It is reassuring for pilots to know that the ships they meet *en route* have pilots on board. There is then a similarity of procedure and navigation that conforms to general practice, with the result that they know what to expect. The pilots as a group have studied various possible situations and have agreed on the safest course of action, e.g., as described earlier, they have adopted a procedure to use different channels around Morin Shoal and Red Islet in foul weather to avoid meeting in restricted waters and thus to diminish the risk of collision. The Master of a ship without a pilot might decide to take just the opposite action as by regulation he would be quite entitled to do.

On the Saguenay River a pilot would add to the safety of navigation, *inter alia*, because he would abide by the rule of the road and keep to the starboard side of the channel, while other ships often "cut the corner"—an extremely dangerous manoeuvre because of the current and the restricted line of sight.

The nature and extent of the need for pilotage in the District of Quebec is well illustrated by the nine-day period from April 6 to 14 inclusive 1962 when the St. Lawrence pilots were on strike. Conditions were at their worst: it was the very beginning of the navigation season, a considerable number of ice floes were still in the river and floating aids had not yet been replaced. Masters were taken by surprise and had no time to prepare for this eventuality; they did not know how long the strike would last and were faced with the dilemma whether to wait in the hope that the controversy would soon be settled or to venture on a trip that might be lengthy in the circumstances. Only one of the nine ships that arrived during the first three days of the strike, when there was no expectation of an early settlement, did not proceed upriver. This was the *Capo Noli* bound for Montreal. Four of the other vessels, M.V. *Frederick Ragne*, M.V. *Consuelo*, M.V. *Ryndam* and M.V. *Joliette* proceeded without delay. The last two made the transit in daylight in nine hours and fifteen minutes and ten hours and forty minutes respectively. The remaining four, one bound for Port Alfred, proceeded alone after some delay.

On the night of the fourth day vessels began to wait for the conclusion of the strike. On April 12, twelve vessels were waiting at Les Escoumins. One of them sailed alone the day after. On the night of April 13, there were 17 ships waiting off Les Escoumins. However, during the strike 33 vessels proceeded alone between April 6 and 12 inclusive. They all made relatively good time but most travelled during daylight hours. On April 13, the four vessels then *en route* to Quebec were obliged to anchor in the region of Cap Brûlé on account of heavy fog and a snow storm which reduced visibility to zero. Except for that day those who navigated by night also made a good transit. M.V. *Porthos* and M.V. *Western Prince*, which left the evening of April 10, made the trip, mostly by night, in about ten hours and thirty

minutes and twelve hours and fifty minutes respectively. On April 12, M.V. *Virgilia* and M.V. *Herland*, which left at midnight, did the transit in twelve hours and fifteen minutes and eleven hours respectively.

There was very little traffic downbound because it was the opening of navigation and very few sea-going vessels had reached Quebec by then. Six vessels left Quebec and two left Port Alfred between the beginning of the strike and noon, April 13. All made good time downbound. M.V. *Batory* took seven hours, S.S. *Mormacpine* and S.S. *Weissenburg* seven hours and thirty minutes each. S.S. *Homeric*, which had taken twelve hours and thirty minutes upbound during the strike, did the return trip in eight hours and forty-five minutes. Three of these trips involved night navigation (Exs. 706 and 769).

In recent years the following vessels which intended to employ a pilot and were not prepared to proceed without one sailed without a pilot when, due to non-delivery of their radio message requesting pilotage service (p. 190), no pilot was available when they arrived at the pilot station: S.S. *Alexander Pushkin* (10,614 NRT) from Quebec to sea in April 1967; S.S. *Magdalena Oldendorff* (7,017 NRT) in PJuly 1967; S.S. *Sunmalka* (7,604 NRT) to Port Alfred in November 1968; and S.S. *Hansel* (2,889 NRT) May 2 1969 (Ex. 1538 (t)).

The normal navigation time for a trip from Les Escoumins to Quebec in good summer conditions, with all aids to navigation operating, is between eight and eleven hours (vide Table p. 458 and Ex. 736). Forty-one ships proceeded without pilots and none had an accident in the channel. After a safe transit M.V. *Consuelo* anchored off Quebec but her anchor fouled the telephone cables.

M.V. *Harpeffjell*, bound up river, encountered fog and snow off Cape Brûlé and anchored in that area on April 13. When the weather improved, the Master refused to proceed and waited for the end of the strike. On April 14, the Supervisor had to send him a pilot by means of a small vessel.

It is not compulsory to employ a pilot in the Quebec District but the payment of pilotage dues is demanded (although illegally, vide pp. 12-14) of vessels that are not specifically exempted by the provisions of the Canada Shipping Act and the By-law under which the relative exemptions to inland and coastal traders were partly withdrawn for larger vessels (vide p. 21). However, small vessels registered elsewhere than in any of Her Majesty's dominions, although not exempt, are not charged dues when they do not employ a pilot (Department of Transport letter dated August 9, 1965, Ex. 1456(f)).

However, very few non-exempt ships do not use the services of a pilot. Those which dispense with a pilot are mostly large barges or Great Lakes



vessels which do not come within the exemption provided for in the By-law because their tonnage exceeds the 2,000-ton limit. Most of them carry pulp wood for the Anglo-Canadian pulp mill situated at Quebec in the St. Charles River Basin and usually make two trips a week on the River.

The following table has been compiled from information available in pilotage returns for the years 1955 to 1968, showing the earnings of non-exempt vessels which dispensed with pilots but paid dues (or part dues if they enjoyed a partial exemption) and their percentage of the total pilotage revenue.

Year	Earnings of trips (vessels) without pilots	Per cent of District gross revenue*
1955.....	\$ 4,111.59	0.6%
1956.....	6,156.58	0.8
1957.....	4,174.08	0.5
1958.....	3,220.44	0.4
1959.....	7,732.07	0.7
1960.....	5,946.11	0.5
1961.....	5,355.18	0.5
1962.....	5,541.11	0.5
1963.....	6,715.18	0.6
1964.....	5,237.67	0.4
1965.....	14,455.60	1.0
1966.....	6,371.96	0.4
1967.....	11,838.23	0.7
1968.....	2,544.57	0.2

\*Excluding pilot boat and radiotelephone charges.

SOURCE: Ex. 534(a).

The Commission was informed (Ex. 1466(n)) that this sudden increase in 1965 was caused by the payment of a bill for \$9,907.50 which represented the dues *S.S. Maplebranch* should have paid in 1963 and 1964. "Apparently the pilotage office was not aware until 1965 that this ship had been passing through the Pilotage District of Quebec without employing pilots. When the matter was brought to the attention of the pilotage office the required detailed information was obtained and a bill was presented, which was paid without question."

Captain Norman E. Rees-Potter, Canada Marine Superintendent for Cunard Steamship Company, stated that it is the company's policy to make use of the pilots' services on the St. Lawrence River and the basic reason for employing pilots is the safety of the ship.

Exempt ships generally take a pilot. Most naval ships take pilots but R.C.N. vessels sometimes dispense with a pilot when downbound. Ice-breakers do not take pilots, but small D.O.T. supply ships which go north during the summer take pilots when they sail downbound in June heavily laden.

### *Bill S-3*

One of the principal aims of the amendments to the Canada Shipping Act proposed by Bill S-3 was the modification of the basic principles of exemptions for the whole of Canada, but especially for the St. Lawrence River and the Quebec District (vide Part I, p. 224).

It was proposed to do away with the existing discrimination against foreign vessels in favour of vessels registered in the Commonwealth. The Department of External Affairs had expressed its concern on this score because of ancient treaties with some foreign countries (Part I, pp. 224-225). At the same time, it was intended to revise the system so as to establish an exemption based on competency instead of on flag and type of voyage (vide Part I, General Recommendation 23).

These aims were to be achieved by deleting the phrase "registered in Her Majesty's dominions" from each of the two classes where it appeared in sec. 346 of the Canada Shipping Act. No reference was made to U.S.A. ships but, in fact, it was they who would have benefitted from the amendment because, generally speaking, other foreign ships are not engaged in the voyages described in subsec. 346(e). The result of the Bill would have placed United States lake vessels in the same position as Canadian lake vessels over the full length of the St. Lawrence River. For instance, the withdrawal of an exemption from Canadian lake vessels would have automatically meant a similar withdrawal for the Americans and, if a "white flag" certificate could be granted to a Canadian Master, American Masters would be similarly treated. Therefore, an American Master with greater experience than a Canadian Master on the St. Lawrence would have enjoyed the exemption but not the non-qualified Canadian Master, and any foreign Master could have applied for such an exemption since it would have been granted on the grounds of competence alone.

When the Bill was introduced, the Department of Transport had not worked out a detailed policy with respect to the new system of exemptions and there was only a vague idea that the existing arrangement was not acceptable.

The Department of Transport witness before the Commission, Captain F. S. Slocombe, stated that the fears entertained by the Quebec District pilots at the time were unfounded. It was never intended to permit American pilots to pilot vessels in wholly Canadian waters, i.e., below St. Regis on the St. Lawrence, the only intention was to remove the discrimination regarding exemptions granted to United States lake vessels.

### *Recommendations Received*

The pilots favoured compulsory pilotage but they stated that, although their brief recommended the *status quo*, even if compulsory pilotage was established, it would not change the situation since all non-exempt ships except a few very small vessels now take pilots. They did not recommend that the exemptions now given should be withdrawn because the small lake vessels are disappearing and the situation as far as schooners are concerned is improving as their Masters increase their qualifications. They urged, however, that in view of expanding traffic any extension of the present exemptions would constitute a great danger to the safety of shipping. In their opinion, too many exemptions have already been granted but, for the above-mentioned reasons, they did not wish to enter into an argument and would be satisfied to maintain the *status quo*.

The Clarke Steamship Co. Ltd. recommended that the exemption for coastal ships be increased to cover British registered ships under 4,000 net registered tons, pointing out that the 2,000-ton limit was established many years ago when it represented the tonnage of the coastal vessels of the time but that this limit is no longer realistic since coastal ships have increased in size.

The Dominion Marine Association recommended, and has been recommending for many years, that exemptions be extended to all regular traders. This was the object of the brief which they presented to the Minister in 1960 and which was vigorously fought by the Pilots' Federation.

For the Commission's views on this matter, reference is made to Part I, pp. 233 and ff. and General Recommendations 22 and 23.

## 3. ORGANIZATION

### (1) PILOTAGE AUTHORITY

The Pilotage Authority is the Federal Minister of Transport and its representative at District level is the Supervisor of Pilots. In matters of internal organization the Authority is assisted by the Pilots' Committee and for some years has had the assistance of an Advisory Committee in matters of policy.

The interdependency of the Quebec District with the other St. Lawrence Districts is covered neither in the Canada Shipping Act nor in the District By-law but the *de facto* situation was recognized in 1960 by the appointment of a Regional Superintendent to oversee all three St. Lawrence Districts (vide Part I, pp. 49 and ff. and General Recommendation 9).



## (2) SUPERVISOR OF PILOTS

The officer-in-charge locally is called the Supervisor of Pilots. In sec. 3 of the By-law he is referred to as the Superintendent but a 1961 amendment defines the Superintendent as the Supervisor. Since the Minister of Transport is the Pilotage Authority in the Quebec District, the Supervisor is a Department of Transport officer. The Department of Transport establishment for the District (Ex. 1146) lists two posts of supervisor: a "District Supervisor of Pilots" in Quebec City and a "Supervisor of Pilots" at Les Escoumins.

The term "District Supervisor of Pilots" is neither defined nor used in the Pilotage By-law. If the By-law is taken literally, it would mean that the District Supervisor (like the Regional Superintendent) has no power, but is simply a Department of Transport officer, and that the officer-in-charge is the Supervisor of Pilots at Les Escoumins. If the definition in the By-law is given another interpretation, there are two Superintendents, both in charge of the District of Quebec and both with, *inter alia*, disciplinary powers.

To complicate the matter further, there is no Civil Service grade under the title "Supervisor of Pilots" on the Department of Transport establishment and the position of officer-in-charge at Les Escoumins is graded as "Superintendent of Pilots 1". The District Supervisor is graded as "Superintendent of Pilots 3" and the Regional Superintendent as "Technical Officer 6".

The Department has recognized that the nomenclature of departmental officers charged with the supervision of pilots is quite confused. While the jurisdiction of the Supervisor has never been queried, it appreciates that clarification is desirable. It had been felt that the definition of "Superintendent" as "the Supervisor of Pilots or a person authorized to perform any of the functions of the Supervisor" was wide enough to permit some latitude in the authorization to perform functions. The Department now feels that for the next incumbent at Les Escoumins it would be preferable not to use the title "Supervisor" (Ex. 1456(x)—Department of Transport letter dated November 1, 1965). For further comments, vide Part I, pp. 289 and ff.

Mr. Albert Hamel held the office of District Supervisor at Quebec from 1936 to 1961. His appointment was a promotion in the office where he had worked as a clerk since 1916. He had no mariner's qualifications nor any sea experience but was well versed in the affairs of the District.

Captain Henri Allard replaced Mr. Hamel on September 25, 1961, and held the office until May 1, 1963, when he resigned to become Harbour Master at Quebec. Captain Allard held a Master's Foreign-going Certificate dated 1958.

He was replaced by Capt. Guy LaHaye who held the office until March 28, 1965, when he was promoted to Regional Superintendent of Pilots. Until Aug. 22, 1966, when Capt J. G. Chouinard was appointed, the post remained

vacant because of the added requirement that the candidate must hold a Master's Certificate of Competency. The first competition advertised failed to produce a qualified candidate (Ex. 1456(x)—Department of Transport letter October 5, 1965).

The pilots stated that their relations with the District Supervisor were always good but they found that he had no real authority and that any matter of importance had to be decided by superior officers in Ottawa (Part I, p. 500).

Captain Allard said that his main function as Supervisor was to supervise the whole District and to make sure that the pilotage service was conducted efficiently and in accordance with the regulations. He also was responsible for the administration of the central office at Quebec and the sub-station at Les Escoumins, which involved the administration of personnel and the despatching of pilots.

As the local representative of the Pilotage Authority he not only handled the internal affairs of administration but was also the intermediary between high ranking officers of the Department of Transport at Ottawa and the pilots on matters that could not be settled locally. Before the pilots discussed any matter with Ottawa, they normally consulted him. He also attended to disciplinary matters with the aim of maintaining a high standard of administration and service.

When he took office he informed all concerned that he wished to settle locally everything possible within his terms of reference and in practice it worked out that way. He did not recall any occasion when the pilots contacted Ottawa direct without first informing him what they were doing.

During his time in office, he always had the co-operation of the Board of Directors of the Pilots' Corporation. Neither the Board nor the pilots' representatives ever objected to any disciplinary measures that he proposed but on the contrary they sometimes insisted that disciplinary measures be taken.

He stated that on one occasion, at least, he settled a dispute between the pilots and the Pilotage Authority in Ottawa. This concerned problems connected with the administration of the sub-station at Les Escoumins. The pilots had told him the substance of their complaint and of their representations to Ottawa. After meeting the pilots and carrying out his own investigation, he made what he considered the proper recommendation to the Minister. The Authority followed his advice.

However, officials in Ottawa did not always consult him and, at times, dealt directly with the pilots. For instance, it was through the Pilots' Committee that he learned about the proposal to charge part of the District expenses against the pilots' revenue (vide p. 357). The problem arose before his time but he was not consulted and, therefore, had no opportunity to make a recommendation to Ottawa. Hence, he was not involved.

Captain Allard knew of the 1962 work stoppage but he had not been consulted by the pilots beforehand. They dealt directly with the Department in Ottawa and the Pilots' Committee simply informed him a few days in advance that general meetings were to be held. He took no part in the argument and convened no meeting with the Pilots' Committee to discuss the matter because he had been informed by his superiors that they were attending to the matter. In fact, the problems involved were beyond his jurisdiction and had not originated at the level of the local authority.

The former Supervisor, Mr. Hamel, stated that at one time there were two separate despatching offices in Quebec, one for the Montreal District and one for the Quebec District. Later on, these two offices were merged to form one pilotage office which was entrusted with the duty of despatching pilots of both groups under the Supervisor's authority. This integration did not extend to financial matters and the Supervisor of each District continued to look after the collection and distribution of dues earned by the pilots of his District (Part I, p. 481).

Re the powers of the Pilotage Authority and the Supervisor over discipline and inquiries, vide Part I, C. 9.

As of May 1, 1969, the District Supervisor is assisted in the performance of his duties by a staff of 18 (not counting the 13 launchmen, engineers, and deckhands operating the pilot vessels at Les Escoumins nor the considerable staff of Marine Traffic Control) divided between the two pilot stations as follows:

Quebec pilot station:

- 1 District Supervisor of Pilots
- 3 clerks (administrative)
- 1 stenographer
- 9 clerks (despatchers)

Les Escoumins pilot station:

- 1 Supervisor of Pilots
- 4 clerks

These offices are now operated 24 hours a day on a year round basis. With the advent of the Marine Traffic Control System, the signal clerks' positions were abolished (Ex. 1538(h)).

### (3) PILOTS' COMMITTEE

The official liaison between the Pilotage Authority and its pilots is the Pilots' Committee which, as stated in sec. 5 of the General By-law, is to be composed of six members "appointed annually by the pilots" but the electoral process is not indicated.



There has never been an election. The practice is for the Board of Directors of the pilots' organization to act as the Pilots' Committee *vis à vis* the Authority. Prior to the formation of the Corporation, the Association's Board of Directors was *ipso facto* the Pilots' Committee; now the Committee is the Corporation's Board of Directors.

Apart from the question of the legality of such a committee (Part I, pp. 82 and ff.), this creates a triple legal problem in that (a) the Corporation's Board of Directors is composed of seven persons, while the Pilots' Committee created by the By-law is composed of only six; (b) the By-law requirement that the members of the Pilots' Committee be appointed annually is not observed; and (c) the Committee is not representative because the Corporation membership does not include all pilots. In fact, the Pilots' Committee is now composed of the seven-member Board of Directors of the Corporation, four of the Corporation Directors are elected to hold office for two years and the post of past President is automatically filled without election. Only the President and Vice-President are elected annually.

The Pilotage Authority is aware of these facts because the composition of the Pilots' Committee is included in the Supervisor's annual report (Ex. 534). These irregularities have never been questioned. The Pilots' Corporation has adopted the attitude that the number prescribed in sec. 5 of the By-law is unimportant and that it should be deleted; what counts is to ensure that there is a minimum representation. They added that the Pilotage Authority has never objected and that there was no prejudice against anyone (Ex. 1461 (1)).

The Pilotage Authority explained that in 1961 the intention was to re-write the By-law, or at least make a consolidation, and at meetings with the Pilots' Committee to discuss possible changes it was agreed that an amendment would be made in the procedure for electing committees so that the Directors of the Quebec Pilots' Corporation would automatically be the Pilots' Committee. The pilots claimed that the Corporation could represent the pilots more adequately since it already looked after their interests to a greater extent than the Pilots' Committee appointed under the By-law. The Department of Transport informed the Commission May 6, 1966, that in the rather confused situation which has existed since 1961 and in the absence of a local Supervisor for a large part of that time, the matter was lost sight of but has now been brought to the attention of the Corporation with the aim of having the By-law in its present form observed pending amendment (Ex. 1466 (i)). As of April 1969, this By-law provision has not as yet been amended and in the annual reports the Committee membership is still shown as being composed of the full slate of the Board of Directors of the Pilots' Corporation.

Occasionally, some pilots have dealt directly with the Pilotage Authority either in Ottawa or Quebec. Captain Allard said that when pilots came directly to him he always referred them to the Pilots' Committee before taking any decision, pointing out that such a practice should be discouraged since it would be impossible for him to deal with each pilot individually. More often than not the question was settled at Committee level.

The Pilotage Authority has frequently consulted pilots individually and directly about proposals involving major changes of procedure without going through the Pilots' Committee. For instance, in 1959 and 1960, it sought the pilots' opinion about the advisability of moving the eastward pilot station from Father Point to a point on the north shore closer to Quebec. In this case, the Pilots' Committee was asked for a recommendation but only after the majority of the pilots had pronounced themselves in favour of the proposal.

The Supervisor, however, is not necessarily the liaison between the pilots and the Pilotage Authority and there is nothing in the By-law to prevent the Pilots' Committee from dealing directly with the Pilotage Authority in Ottawa as it has often done when it knew that the point was beyond the power of the Supervisor to decide, e.g., matters of policy and tariff revision. Nor does the By-law require the Pilotage Authority to deal with the Pilots' Committee through the Supervisor. In fact, he has been by-passed many times, e.g., the issue which led to the 1962 strike, i.e., the proposal to make the pilots pay part of the District expenses, was raised by the Deputy Minister of Transport in a letter addressed to the Pilots' Committee.

The Supervisor normally seeks the Committee's advice before taking decisions of importance regarding the internal organization of the service, such as despatching procedure. Captain Allard, for example, consulted the Committee before advising the pilots to refuse to board vessels at Les Escoumins without an accommodation ladder as required by a Notice to Mariners. He had ascertained beforehand that all the shipping agents were aware of the requirement, which had been in effect for many years, and had also consulted his superiors in Ottawa.

When the Supervisor wishes to issue general instructions or information to the pilots, he does so through the Committee which, in turn, publishes the material in the Corporation bulletins which are distributed to all pilots (Ex. 688).

The Pilots' Committee is very active. During the last six years it has been instrumental in bringing about most of the changes made in the organization of the pilotage service and in the qualifications for pilots. These activities will be studied later.

In General Recommendation 25 (Part I, p. 549) the Commission has recommended that the pilots of each District automatically form a Corporation, and that the function of the Pilots' Committee should be entrusted to that

Corporation (hence, to its Board of Directors). As to the extent of its right to represent each individual pilot and the right of the Pilotage Authority to deal directly with pilots individually, reference is made to Part I, p. 551.

#### (4) ADVISORY COMMITTEE

In the Quebec District, the Advisory Committee was short-lived. The idea of forming a pilotage Advisory Committee was first proposed by the Shipping Federation. The Pilotage Authority approved and agreed to try it out. It was realized that the central authority was overburdened and that there should be some kind of decentralization. It was felt that the Advisory Committee should be a local body which would resolve problems on the spot to save headquarters from being continually involved in local matters. The practical aspect was that if both the shipping interests and the pilots were in agreement on a matter which did not involve public funds there would be no reason for the Authority in Ottawa to disagree. The Federation had recommended a double system, i.e., a top level Advisory Committee in Ottawa and a local committee in each District. It was decided, however, not to proceed with the larger issue, although the possibility was not ruled out altogether, but to experiment at the District level. In 1958, these committees were set up by the Pilotage Authority which appointed representatives in the main Districts. The pilots' representatives were the members of the District Pilots' Committee. The shipping interests were allowed to name their own representatives and were free to change them from time to time. The Chairman was the District Supervisor or Superintendent. The terms of reference were the same for all the Districts where the system was tried.

The underlying thought was that this Advisory Committee would serve as a continuing liaison between the pilots and the shipping interests leading to closer discussion and better understanding. Captain F. S. Slocombe of the Department of Transport said this aim had been achieved to a certain extent. He was aware that the pilots had met with the Shipping Federation occasionally when the need arose in connection with mutual problems and that the two groups had made joint representations, but the Authority had hoped the local Advisory Committee would provide a more permanent arrangement which would require both sides to meet more frequently and to exchange views.

It was clearly understood that the Committee was strictly advisory and had no legal powers to settle disciplinary or other questions (vide terms of reference of Halifax Committee, Part III, pp. 200-201).

In Quebec it was known as the *Local Pilotage Committee*, and it concerned itself mostly with disciplinary problems, but occasionally dealt with other matters, e.g., when Mr. Cumyn, Director of Marine Regulations, met the Committee October 21, 1959, and discussed the contentious question of abolishing the special service pilot system and proposed moving the eastern boarding station.



These Advisory Committees were successful only when they gave advice on non-contentious matters. In Halifax, for instance, the Committee is still working well giving advice about aids to navigation or improvements in the pilotage service (Part III, p. 200). In British Columbia, the Committee degenerated after a few meetings into a conciliation board which, in the opinion of the Pilotage Authority, is not working satisfactorily (Part II, p. 64). In Montreal and Quebec, the Committee tried to make itself responsible for discipline and proved quite unsuccessful as a quasi court.

Referring disciplinary matters to the Committee was the Pilotage Authority's idea. By that time disciplinary problems were causing so much difficulty that the Authority thought it would be useful to have the opinion of an organization which represented all the interests concerned, but the Committee forgot that its rôle was merely advisory. Its sessions developed into irregular trials and the experiment was a failure.

The Committee usually reached natural and correct conclusions on disciplinary matters but the difficulty was that the Authority in Ottawa had to base its decision on legal and admissible evidence only, and when the case was dealt with in Ottawa it was frequently found that the evidence was not sufficient. In such cases the recommended disciplinary measure could not be imposed. The Pilotage Authority had hoped that this Committee would be an impartial board which would give an absolutely unbiased recommendation. It was found, however, that in some cases the Committee divided on straight lines of interest, the pilots' representatives defending the pilot and the ship-owners' representatives voting against him.

In Quebec, the members of the Committee became dissatisfied when they found that their decisions were not followed and they felt that they were ignored. It would appear, however, that the Chairman of the Committee was always informed of the final decision but not the members individually.

The procedure for convening the Committee was very informal. The Regional Superintendent, when so requested or when he deemed fit, requested the Committee to sit and the Shipping Federation, the Dominion Marine Association and the pilots then sent their representatives. In disciplinary cases they studied the reports and the facts gathered during the various investigations. The pilots involved attended and were further examined.

From the minutes of the meetings (Ex. 1321) it appears that the advisory Committee met on only four occasions: May 27, 1959, July 7, 1959, October 21, 1959 and March 3, 1960. Except for the discussion with Mr. Cumyn at the October 21 meeting, the only problems dealt with were disciplinary. To illustrate the procedure and the difficulties encountered it is instructive to analyze their activities. For the case of Pilot No. 70's alleged drunkenness, vide p. 397 and Part I, p. 334.

On July 7, 1959, the Board was composed of three shipping representatives including Captain Matheson of the Shipping Federation of Canada, five members of the Pilots' Committee and two Department of Transport representatives, the Superintendent of Pilotage, Captain D. R. Jones, and the Quebec District Supervisor, Mr. Hamel. They met to examine the conduct of the two pilots involved in the collision between the S.S. *Argyll* and M.V. *Sunima* which had been the subject of a preliminary inquiry. In his report the investigator mentioned that there appeared to be no extenuating circumstances to mitigate the blame for the accident which had to be shared by the two pilots involved. The collision occurred May 27, 1959, at night, between Lauzon and the west end of Orleans Island under ideal conditions: no traffic, fine weather and clear visibility. The report indicated that the two pilots had not been paying attention to the course steered by their ships. One of the pilots stated in defence that he had been overworked at the time and was tired but when his record was produced it was shown that he had had two clear days off duty before boarding his vessel. The Committee was unable to reach a decision on what recommendation to make. The pilots' representatives declined to make any statement regarding the degree of blame to be attributed to either of the pilots concerned, while the shipping representatives took the view that the shipowners had a right to expect a much higher standard of efficiency. The only recommendation came from the Chairman who suggested that a suspension of long duration be imposed. Saguenay Terminals Limited cancelled the appointment of both pilots as their special pilots. After receiving the Advisory Committee's report the Pilotage Authority decided to postpone disciplinary action pending civil litigation. The court's decision was that only one ship was responsible for the accident but by that time disciplinary action was time-barred. For comments, vide Part I, p. 351.

On October 21, 1959, the Committee met again to deal with three cases. Only one member of the Shipping Federation attended, three Department of Transport officers and four of the Pilots' Committee.

The first case was a complaint received from the Master of the T.E.V. (Turbo Electric Vessel) *Beaverdell* concerning the physical fitness of one pilot who was alleged to have been under the influence of liquor when he went to board the vessel off Father Point at 2337 hrs., August 21, 1959. The Master refused to allow the pilot on board, whereupon the pilot reported to the officer-in-charge at Father Point, Captain Desrosiers, for further instructions. Captain Desrosiers did not see fit to interview the pilot personally and told him to return to Quebec. He stated later that by the way the pilot was speaking over the telephone there was no doubt that he was then in a drunken condition. Captain Desrosiers' testimony was the sole evidence available since the Master who had made the complaint had departed. The pilots' representatives on the Committee recommended a fine of possibly \$200 while

the shipping representative, with the concurrence of the Department of Transport representatives, suggested a suspension. The Pilotage Authority concurred in the recommendation of the majority but legal advice was received to the effect that a charge could not be proven for lack of evidence and, therefore, the end result was that the pilot was merely warned.

The second case concerned a similar charge made against another pilot by the Master of S.S. *Tronstad* who had refused the pilot at Father Point May 9, 1959, the charge being made in a letter dated May 28. In this case, the pilot concerned had been seen by Captain Desrosiers who stated that when the pilot reported to his office some time prior to boarding he had noted that the pilot was not normal and was under the influence of liquor. This opinion was corroborated by two crew members of the pilot boat. However, there was evidence to the contrary from a fellow pilot and the Master of the pilot boat. In view of the conflicting evidence the Advisory Committee recommended that the pilot be given the benefit of the doubt. This recommendation was concurred in.

For comments on the situation disclosed by these two cases, vide Part I, p. 429.

The Committee also studied the circumstances of the grounding of M.V. *Marquette* June 28, 1959, near Cape St. Joseph, which also had been the subject of a preliminary inquiry. The local Pilotage Committee considered the report of the inquiry and had the pilot involved appear for questioning. It was stated that visibility was poor, radar was available but not in use, nor was the echo sounder. The probable cause of the accident was failure to steer a correct course. The pilot had ordered an alteration of course shortly before entering Coudres Passage, but neither he, nor apparently the officer of the watch, had taken the precaution to see whether the course alteration had been properly carried out. The Committee was unwilling to accept the pilot's explanation that he had not requested the use of radar because he feared a refusal. It attached no blame to him for not reducing speed under the circumstances because the variable currents in Ile aux Coudres Passage make this generally inadvisable. In view of the pilot's previous excellent record and the joint responsibility of the ship's officer on watch, it recommended no penalty except a severe reprimand. This advice was concurred in later by the Authority.

This Committee also met March 3, 1960, to investigate the stranding of S. S. *John E. F. Misener* on Lark Reef November 6, 1959. The Committee was composed of the Regional Superintendent as Chairman, one representative of the Shipping Federation of Canada, one of the Dominion Marine Association and three pilots. The mandate of the Committee was merely to assist the Pilotage Authority:

- (a) to find the reasons for, or causes of, the casualty;



- (b) to find if the casualty was due to any misconduct or neglect by the pilot;
- (c) to give the pilot an opportunity to be heard;
- (d) to recommend disciplinary action if thought advisable.

The Committee was furnished with a copy of the preliminary inquiry and Captain S. Morrison, who had presided over the preliminary inquiry, attended the meeting in order to give further explanations if desired. The pilot attended with his legal counsel and there was also a counsel for the Department. Mr. John E. F. Misener was also present as an observer.

The Committee came to the conclusions that, if the pilot had made intelligent use of the aids at his disposal, ample warning of danger would have been received and that the cause of the accident was a sudden alteration of course of which the pilot was unaware.

The finding of the Committee was that the accident was caused in part by the negligence of the pilot, but it observed that it was not unreasonable for the pilot to rely to some extent on the officer of the watch and the Master to bring to his attention any suspicion that anything untoward was happening. Under these circumstances they recommended that as a disciplinary measure a severe letter of reprimand be sent to the pilot.

The Minister ordered a formal investigation (p. 367). The judgment, which was rendered November 6, 1959, blamed the pilot primarily for his failure to make proper allowance for the north-easterly tidal set that existed there at the time and that caused the ship to deviate; secondly, for his failure to use shipborne aids to navigation except radar which was not used efficiently. The Court suspended the pilot for three months.

#### (5) REGIONAL SUPERINTENDENT OF PILOTS

The Federal Minister of Transport has a dual function. In some Pilotage Districts he is the Pilotage Authority; in all Pilotage Districts (including those of which he is Pilotage Authority) he has responsibilities as Minister of Transport in the application of the Canada Shipping Act. Within the Department of Transport there are various groups of officials to advise the Minister in his several capacities.

In 1959, the office of Regional Superintendent of Pilots was created. The Superintendent is located in Montreal as the regional representative of the Department of Transport on pilotage matters in the St. Lawrence River Districts. He is not an officer of the Pilotage Authority and does not possess any authority. His function is recognized neither by the By-laws of the Districts concerned nor by any formal delegation of power from the Pilotage Authority. He is the local Department of Transport adviser to the Supervisors of the three Districts concerned, and the liaison officer between them and the advisers to the Pilotage Authority in the Department of Transport in Ottawa.

In addition, his services are used to relieve the District Supervisors of the task of carrying out informal investigations into casualties and complaints that are normally investigated at District level by the Supervisor prior to forwarding the pilots' accident reports or complaints to the Pilotage Authority. At times, his services are used by the Minister of Transport to hold preliminary inquiries under sec. 555 C.S.A. (Ex. 1461(b)) (vide Part I, pp. 338 and ff.).

Since this office was created in September 1959, its incumbents have been Captain Jacques Gendron, September 1959, to December 1961; Captain W. A. W. Catinus, June 25, 1962, to April 12, 1964; and Captain Guy LaHaye, the present Regional Superintendent, who was appointed March 29, 1965 (Ex. 1461(b)).

The vacant periods between appointments are due to the fact that this office is a Civil Service post and is filled by a Public Service Commission competition.

In the competition notice of February 1962, the position is entitled "Regional Superintendent of Pilots, Nautical and Pilotage Division, Marine Regulations Branch, Department of Transport, Montreal". The duties are described as follows:

"Under direction, to exercise general supervision over all aspects of pilotage and marine reporting administration in the various pilotage districts of the St. Lawrence River from Kingston, Ont., seaward to Les Escoumins, P.Q.; to be responsible for the efficient operation of all phases of this work, including the operation of pilot boats, despatching of ship's pilots, reporting movements of vessels, collection and disbursements of pilotage fees; to be chairman of committees appointed to examine candidates for Pilot's licences and to enquire into and make recommendations on various problems affecting efficient operation; to review pilots' casualty reports and submit memoranda thereon assessing the circumstances; to perform other related duties as required" (Ex. 542).

The Kingston District has since been removed from the jurisdiction of the Superintendent (Ex. 1461(b)). His office is in Montreal in the same building as the Montreal pilotage office.

Generally speaking, the Regional Superintendent is responsible for the pilotage efficiency of the Districts of Quebec, Montreal and Cornwall, and the co-ordination of work between the pilotage offices but he has no direct responsibility for administration in any District. He does not give any direct orders but always acts through the Supervisors. Captain Gendron added that, in fact, he had no authority over local Supervisors except on minor matters. His function was to meet with them, discuss their problems and decide matters which could be decided in the field. However, he would not review or reverse their decisions except on minor matters, such as changing the pilots' names on the list, allowing pilots time off or deciding minor punishments. The local Supervisors are not obliged to consult him about any of their decisions but, in fact, do so on many occasions.

Captain Gendron added that, on the other hand, his decisions were never final but were always subject to revision or reversal by the Authority in Ottawa. On major issues he always consulted Ottawa before coming to a decision. He was given permission in the middle of 1960 to replace on his own recognizance any pilots who had retired or died. He followed the established procedure, i.e., chose the first apprentice, held an examination, etc. But the decision to retire a pilot, whatever the reason, e.g., breach of discipline, was a matter for Ottawa to decide, as were all serious questions of discipline.

The operation of the Department of Transport pilot vessels comes under his jurisdiction but the only pilot vessels provided by the Department of Transport within his territorial jurisdiction are those at Les Escoumins.

He acted as Chairman of the District Advisory Committees while they lasted and as Chairman of the District Board of Examiners, which chooses candidates for apprenticeship and appraises the training progress of the apprentices.

His main responsibility is to relieve the Supervisors of the onerous task of investigating complaints, thus leaving them free for their other duties. An important part of his work concerns the investigation of complaints and casualties but his status, responsibilities and authority in this regard are not defined. Complaints are of many kinds: by a pilot about the erratic behaviour of small craft or about obstructions in the ship channel; by a Master who refuses the services of a pilot; by an agent who feels that a pilot has asked for unnecessary tugs; by the public about ships exceeding the speed limit; by Masters or agents about pilots being late.

Nor is the Regional Superintendent always informed about discussions between the pilots and the Authority in Ottawa. There have been occasions when the pilots went to Ottawa directly, by-passing both the Regional Superintendent and the Supervisor. For instance, the Superintendent was unaware that meetings were being held between the Montreal pilots and the Ottawa authorities about St. Lambert lock. He was not invited to participate nor was he consulted about the decisions and it was not until the pilots brought the Deputy Minister's letter to his attention that he learned what Ottawa had decided to do. As a rule, however, he is consulted by Ottawa, generally by telephone, before any decision is taken affecting pilotage on the St. Lawrence.

(6) DEPARTMENT OF TRANSPORT PERSONNEL AS ADVISERS  
TO THE AUTHORITY

Most of the responsibilities of the Minister as Pilotage Authority, (which includes his Deputy Minister, subsec. 2 (69) C.S.A.) are attended to on his behalf by the officers and employees of his Department, but there is



no legal delegation of power (except at the local level to the District Supervisor as aforesaid) and he remains the final authority. The departmental staff act both in an executive and an advisory capacity. It is a common occurrence to see the pilots and other interested parties proceeding from official to official within the Department and indeed succeeding in having decisions taken by one officer reversed by his superior. In this process they go as high as the Deputy Minister or the Minister, if necessary.

In 1958, the functions in the Department of Transport were redefined and pilotage was placed under the jurisdiction of the Director of Marine Regulations. The officer immediately responsible for the organization of pilotage is the "Superintendent of Pilotage", whose superior in the Directorate is the "Chief of Nautical and Pilotage Division". Before reaching higher levels, all pilotage questions normally have to go through this chain of command. There is no specific rule or clear cut division between what one may decide on his own and what must be passed to a higher level—it is all a matter of judgment.

The pilots are not satisfied with the efficiency of the Ottawa headquarters and with its attitude towards them. They complained bitterly about long delays and lack of authority at various levels. Their relations became more and more strained and dissatisfaction increased until after some threats they resorted to strike action in 1962.

Captain Gendron stated that he had noticed a marked tendency towards *centralization* which had begun long before his time and which he attributed to the appointment in both the Quebec and Montreal Districts of people inadequately qualified, e.g., when two clerks were promoted to Supervisor. They had neither sea experience nor any marine qualifications; they were not experts in pilotage and, when problems arose, they had to refer them to Ottawa. This situation was complicated as the number of ships on the River increased and in due course when the number of pilots also increased. Problems multiplied and the local situation caused Ottawa much more work than would normally have been the case if the local Supervisors had been adequately qualified. The result was more and more centralization. Captain Gendron pointed out as an example that, although the By-law was not amended, the Quebec Supervisor was advised not to exercise his power to award a fine up to \$40. Little by little the Supervisor's authority was curtailed until he had no power at the local level and all local problems were resolved by others in Ottawa. Captain Gendron is of the opinion that sea experience as Master should be a pre-requisite for the post of Supervisor because when he was Supervisor he had under his orders 70 to 75 persons and, having been in charge of a vessel, he was able to command and make decisions. This sea experience also enabled him to understand and deal with the navigational problems the Supervisor is always confronted with. In addition, the Supervisor should be qualified to deal with various other problems of administration, e.g.,

tour de rôle, accounting and legal questions, and he should be able to conduct inquiries, to go on board vessels and appraise situations. In other words, he has to be a mariner with additional qualifications. This recommendation has since been implemented (vide p. 213).

Captain Gendron had also noticed less and less co-operation between the Authority, the pilots and the shipping interests. During recent years, the pilots on one hand and the administration on the other separated and drew further apart. This, he felt, was a serious problem and he urged that there should be closer co-operation between the three parties involved: Authority, pilots and shipowners.

The views of the Commission on centralization are expressed in Part I, p. 429, and General Recommendation 15.

#### 4. PILOTS

##### (1) RECRUITING AND QUALIFICATIONS OF PILOTS

###### (a) *Number of Pilots*

As in most Pilotage Districts, the pilots' profession in the Quebec District is closed. Their permissible number is whatever the Pilotage Authority considers necessary to meet requirements and provide adequate remuneration for a reasonable workload. Years ago, their number was set by Parliament, (subsec. 18(5) of the 1873 Pilotage Act) which fixed the number of pilots for the District at a minimum of 150 and a maximum of 200. This provision was repealed in 1882 when it was provided that "the Pilotage Authority of the District of Quebec shall not grant any new licence to any person as a pilot until the number of pilots in the said District is reduced to below 125, which number shall never be exceeded after such reduction." The 1927 C.S.A. still carried this ceiling (sec. 423) but it was deleted in the 1934 version.

Since 1934, the Act has left it to the judgment of the Authority to determine by by-law the number of pilots, as had always been the rule for the Pilotage Authorities in the other Districts. In conformity with the statutory requirement, the Pilotage Authority for the District of Quebec, contrary to the illegal practice followed in other Districts, established in the By-law a criterion to determine the number of pilots. This criterion, except for a question of style, has remained unchanged since it first appeared in the District By-law of 1928 (Ex. 1448) of which sec. 24 provided that the number of pilots was to be determined "on the basis of 50 pilots for each 3,500 trips per annum". Sec. 4 of the existing By-law prescribes that the number of pilots "may be approximately one pilot for every 70 trips per annum" (vide Part I, pp. 255 to 258). However, despite the fact that this criterion was repeated in every new version of the By-law after 1928, it has since been disregarded for many years.

During the years of depression, World War II and those immediately following, the number of pilots greatly exceeded requirements so that: (a) the individual pilot's income was very low, despite the surcharges imposed during the war years; (b) the apprentices had to serve an apprenticeship of as many as 15 years before they were called into the service. Traffic had decreased abruptly while the number of pilots was reduced only through normal attrition, deaths, retirements, etc. In 1946, 51.2 effective pilots did an average of 54 trips; in 1948, 52.8 effective pilots did 55.4 trips.

From 1949 on, however, traffic increased steadily; from 1948 to 1958 inclusive, just before the opening of the Seaway, there was an increase of 125%.<sup>2</sup> Since then the increase has been constant.

The criterion of 70 trips per pilot per year was attained in 1949 and was soon passed. In 1954, the average workload was 83.5 trips per *effective pilot*, 80.06 in 1956, 92.3 in 1958. According to the statistics contained in the Pilotage Authority's annual reports, from 1960 to 1964 the workload for those years per *effective pilot* was respectively, 99.4, 102.8, 105, 105.7, 107.6 trips.

The following comparative table for the years 1955 to 1968 inclusive shows what the strength was in year pilots, their average workload and what the strength should have been according to the By-law criterion:

Year	Actual Strength in Year Pilots*	Number of Trips (Assignments)	Number of Trips per Year Pilot	Required Strength according to By-law Criterion
1955.....	64.6	5,647	87.4	80.7
1956.....	70.1	6,114	87.2	87.3
1957.....	68.6	5,951	86.7	85.0
1958.....	68.5	6,172	90.1	88.2
1959.....	73.3	7,298	99.6	104.3
1960.....	75.4	7,477	99.1	106.8
1961.....	76.8	7,513	97.8	107.3
1962.....	77.0	7,575	98.4	108.2
1963.....	76.8	7,659	99.7	109.4
1964.....	79.2	8,607	108.7	123.0
1965.....	85.7	9,044	105.5	129.2
1966.....	85.2	9,556	112.2	136.5
1967.....	86.0	9,166	106.6	130.9
1968.....	87.5	9,163	104.7	130.9

\*For the meaning of "year pilot" vide p. 117.

SOURCES: Tables pp. 116 and 118.

<sup>2</sup> These figures are computed from information obtained from Table 9 and Table 10 (pp. 88 and 90 English version) of the Brief of the Federation of the St. Lawrence River Pilots.



The Pilotage Authority tried to explain by saying that the By-law criterion was never strictly adhered to and the word “may” was interpreted as permissive, i.e., allowing flexibility of application. Furthermore, it expressed the opinion that another interpretation would not be within the bounds of practical possibility because of the variation in traffic from year to year and the impossibility of reducing the number of pilots if traffic fell off in subsequent years.

It would also be necessary to define the term “trip” as a unit of measure. The term is not defined in the By-law; from the context it would appear that it means here one pilotage performed irrespective of the distance involved (vide p. 113).

Although the criterion was retained in the 1957 By-law (despite the fact it was not being applied), it appears that no one took it seriously. The pilots were not interested because only seventy trips per pilot would reduce their remuneration; the ship-owners were aware that if the criterion were applied there would be a demand to increase the tariff; the advisers to the Pilotage Authority felt that because conditions had changed greatly since 1928 seventy trips no longer represented what should be the normal workload for a pilot. The Pilotage Authority expressed the opinion that the formula establishing the number of pilots should be deleted when the By-law was rewritten, as was done when the Montreal District was divided at Three Rivers and their former criterion became obsolete. The Authority also stated that if anyone had insisted on the strict application of the formula in the Quebec District it would have been removed (Department of Transport letter dated November 4, 1965, Ex. 1461(d)).

Despite the By-law entitlement at that time for a much larger number, the pilots actually experienced great difficulty with the Authority in getting their numbers increased even slightly and each time the question arose it proved to be a most frustrating experience for them. In 1962, they felt that their workload was too heavy and requested the Authority to increase the establishment by at least four. When they were refused, they made this request one of the recommendations in their Brief to this Commission. They later reduced the request to three because the licence of an absentee was forfeited automatically, thus allowing for his replacement by an active pilot.

This question had first been studied in the fall of 1962 by the Committee of Admission and Promotion of the Pilots' Corporation. The request was made at the local level, i.e., to the local Supervisor who referred it to the Regional Superintendent, Captain Catinus. Both were in favour of it.

In their letter dated December 29, 1962, the pilots listed three reasons to support their request:

1. One of the four pilots would be a replacement for a licensed pilot who had been unable to pilot for the previous three years on account of illness.

2. The second pilot would fill in advance a vacancy that was about to occur during the navigation season. The letter pointed out that it was preferable to take a pilot on strength at the beginning of the season.
3. The other two pilots were justified by the increase in traffic in 1962 and the level expected in 1963 (Ex. 705).

The question was also studied at a meeting of the Board of Examiners, although this was beyond their jurisdiction. The Department representatives on the Board of Examiners were also in favour but the pilots were unable to furnish the Department with any statistics. They explained that it was too much work to compile them without the necessary equipment. They had had an unsatisfactory experience in 1960 when, after considerable effort, they checked the Department's figures and compiled their own, and found the result of their efforts was nil except congratulations for the good work done.

This had been the first request for more pilots since 1960 when their number had been increased from 75 to 77, also after long discussions and negotiations.

When no satisfaction was received, the President of the Pilots' Corporation together with the President of the Committee of Admission and Promotion, went to Ottawa to meet with the Pilotage Authority's advisers, Mr. Cumyn and Captain Jones (Ex. 705). After discussing the matter at length, further explanations were requested. These were furnished April 22, 1963. In reply, a letter from the Minister, dated June 10, 1963, stated that their request was unwarranted and that the overload that they were complaining about could be cured by dealing with pilots' absenteeism, of which seven cases were listed. On July 10, 1963, the pilots replied to the Minister pointing out that the necessary information regarding these absentees was available in the Department's files in Ottawa. Some absences were due to illness and the medical certificates were in the hands of the Authority; in other cases, the pilots were not really absent on a yearly basis because they made up their turns later. Only after further meetings with the Pilotage Authority's advisers and with the Minister in 1964 was part of the requested increase granted: two additional pilots were allowed. However, by that time the pilots were requesting a further increase of three or four and further representations were being made.

At the Commission's hearing in September 1964, Captain F. S. Slocombe pointed out that before yielding to the pilots' request the Pilotage Authority had to be convinced that the requested increase in number was justified from the point of view of workload. The contentious points were still what was considered work and whether average figures were acceptable. Captain Slocombe was far from convinced that even the increase of two that had

been granted was warranted and had even graver doubts about the others. However, the pilots' repeated representations bore fruit and their number was increased to 82 on February 1, 1965, and to 86 on April 8, 1965. At the end of 1968 the establishment was 88 (vide Table p. 118).

Section 4 of the By-law conveys the idea that the expression "number of pilots" means what is known in other spheres of activity as a "personnel establishment", i.e., a predetermined number of people which may be modified from time to time according to requirements and which need not coincide with the actual number on strength but implies that vacancies are automatically filled as they occur unless the established number is reduced by amendment.

The wording of the whole of section 4 conveys this concept as did the language used by all parties during their testimony.

In a letter dated November 4, 1965 (Ex. 1461(d)) the Pilotage Authority stated that this is not the practice, that there is "no set establishment at any particular time" and, therefore, the departure of a pilot does not create a vacancy. As a result of the centralization of pilotage administration in Ottawa, the advisability of appointing a new pilot has to be considered each time on its merits by the Ottawa HQ according to the prevailing situation, even if it is simply a question of filling a vacancy. The Authority does not set an establishment in principle but decides each individual case separately.

Captain Gendron stated that, as Regional Superintendent, he finally succeeded in obtaining authority to fill vacancies as they occurred without seeking a decision from Ottawa but this privilege was not extended to the District Supervisors and was never made automatic.

In 1960, when the pilots proposed an increase in their number from 75 to 77 the Pilotage Authority suggested a new system which would have frozen the pilots' strength at the so-called "saturation point" of 75 and established a reasonable workload by increasing the number and type of vessels exempted from the compulsory payment of pilotage dues. This was an indirect acknowledgment by the Pilotage Authority that safetywise the scheme of exemptions was unrealistic; that if it were not for the question of revenue, many vessels should be exempted.

Mr. Cumyn, Director of Marine Regulations, who advanced the proposal stated that at the time the Dominion Marine Association was pressing the Department for some measure of exemptions in the Quebec District and the Department was considering whether anything could be done to meet their request. In his discussions with the pilots he stated that he merely threw out the idea as a thought but not a plan. The suggestion came entirely from him as a possible solution, not as a policy of the Pilotage Authority but simply a possible course of action. This proposal was an entirely novel concept in pilotage.



The concept was that the Department would grant partial exemptions and that these would encourage Great Lakes ships to do without pilots which, in turn, would result in a reduction of the pilotage workload. The exemptions would be balanced against the number of pilots on strength and, when their number was reduced by natural causes, exemptions could be increased. The governing factor was to maintain the level of the pilots' income. When Mr. Cumyn proposed this plan to the pilots, he stated that he had no intention of granting such exemptions to United States ships. However, the idea was strongly opposed by the pilots' representatives and was not pursued (Ex. 683).

#### COMMENTS

The foregoing is a striking example of the profound misapprehension of the rôle of legislation in the organization of pilotage as provided under Part VI of the Canada Shipping Act, and a clear example of inefficient and time-consuming administration resulting from unwarranted and excessive centralization.

The pilots' request was well founded both in law and in fact. In law, the Pilotage Authority had no alternative but to grant the request when it was established that the aggregate number of trips performed by pilots in the previous year would, by the By-law criterion, warrant the requested increase unless it were clearly established that the peak reached was merely a passing phenomenon, which was not the case.

The Pilotage Authority did not seem to realize that in the discharge of its administrative duties it was bound like anybody else by the existing legislation, whether it consisted of provisions contained in a statute or in its own By-law.

It is true that the By-law criterion was outdated. However, this is not a valid reason for not applying legislation but it does warrant an amendment—a relatively simple procedure as far as regulations are concerned. However, until an amendment is approved, it is the mandatory executive duty of the Pilotage Authority to apply existing legislation.

The explanation given by way of justification to the effect that the criterion was only permissive in view of the use of the word "may" is not valid. To give the text such an interpretation would amount to saying that when the Pilotage Authority made the rule and the Governor in Council sanctioned it, they had no intention that the provision would mean anything. The word "may" in such a context is there to give some flexibility in the implementation of the criterion; it means more or less in order to give the Pilotage Authority some discretion within the bounds of reason; but the word "may" is not there to negate the purpose of the criterion.

The pilots' request was in fact well founded and eventually was granted. They succeeded after three years of negotiations which cost much effort and

money and caused unnecessary loss of time at all levels. All this could have been easily avoided if the Ottawa headquarters had limited their involvement to the definition of proper policies that would have been embodied in the District regulations and had left their actual implementation to the responsible officer at the District level.

For further comments see Part I, pp. 255 and 258. Furthermore, the Commission has recommended that the requirement that the number of pilots be fixed by regulation be retained (vide Part I, General Recommendation No. 18, p. 514).

#### (b) *Recruiting and Apprenticeship*

Pilots are recruited by an elaborate apprenticeship system designed to assure a high standard of qualifications and skill. General education in navigation is assured by requiring (i) a basic general level of education, (ii) basic academic studies in navigation and (iii) practical experience in navigation. Local knowledge is acquired during the apprenticeship period; skill is acquired and appraised through a grade system.

The apprenticeship system for the training of pilots in the Quebec District dates back to the origin of organized pilotage. At the beginning there was strict apprenticeship. The apprentice was indentured to a master pilot and became a pilot after serving as an apprentice for a number of years and passing an examination before the Pilotage Authority. Soon two more requirements were added—a certain number of trips on the high seas “before the mast” and a certificate of competency. The latest requirements to be added were a basic education and theoretical studies in navigation. The apprenticeship system was retained despite the recommendation of the Robb Royal Commission that it be abolished in order to recruit experienced mariners as pilots (vide Part I, p. 252).

As ships developed and the art of navigation advanced, the nature and extent of candidates’ qualifications became more demanding.

Up to 1961, the qualifications required of a pilot and the conditions of apprenticeship were established by the Pilotage Authority as it saw fit. In 1960, the pilots were re-organized into a corporation, the special pilot system was abolished and a system of grade pilots was created in lieu. From this time on the pilots played an active advisory rôle in establishing standards for both pilots and apprentices. The Pilots’ Corporation set up a permanent committee of their own called the “Committee of Admission and Promotion” and entrusted it to do the necessary research and to recommend what might be done to ensure the selection of the best candidates, to obtain applicants with the highest qualifications and, at the same time, to improve the lot of the apprentices. The Committee was quite active and in 1961 the Pilotage Authority, acting on the recommendations of the pilots, brought about the basic changes they recommended. The general qualifications asked

of candidates, both in basic education and in navigation, were increased; the uncertainty of ever becoming a pilot was to a great extent removed; the Authority assumed an active rôle in the apprenticeship programme through a permanent Board of Examiners which was required to check the progress of the apprentices from year to year and to reject those who showed a lack of interest or lack of aptitude. The minimum duration of apprenticeship was reduced to three years but the training was intensified.

Until 1960, almost any young man with the faintest interest in pilotage, regardless of the extent of his education, could place his name on the list of candidates. All he needed was to be a British subject or a Canadian citizen at least 16 years of age with a basic knowledge of mathematics and of the French and English languages. The applicants were listed in chronological order as their applications were received without regard to their qualifications or aptitude. There was no discretion in this matter, it was automatic. A candidate's name remained on the list until it was his turn to be called or he attained the age limit of 30 when it was automatically struck off. Since there was no assurance of ever being called, the candidates put their names on the lists for both the Districts of Montreal and Quebec at the same time but, on the other hand, lost no opportunity to pursue some other occupation, with the result that when they were called most candidates were no longer interested or had failed to acquire the prerequisite qualifications to become an apprentice, including the possession of a Certificate of Competency as First Mate of a Home Trade steamship. The very length of the list was a discouraging factor for a serious candidate. Normally it took five or six years to be called but some candidates remained on the list for ten years and in one case fifteen years. At one time, the Quebec list contained 240 names of whom about 24 became apprentices and of those some 20 became pilots.

When pilot Roland Barras applied, he was still going to school at the age of 16. He was then far down on the list, around 160th. He applied for the Quebec District only. He was called for his apprenticeship about six years later and remained an apprentice for 16 years from 1930 to 1946 because few pilots were required during the depression and the war years.

In 1942, pilot Dussault asked the Superintendent to place his name on the waiting list for apprentices when he was a seaman aboard the coastal vessel *S.S. Sable Isle*. It was not until 1952 that he was called. Prior to that he had had no guarantee that he would ever be called on account of the age limit of 25 and also because, for a number of years, there was no need for additional pilots. After the war, an exception was made to the age limit for those who had served in dangerous waters during the war. This made it possible for him to be called at the age of 26.

When pilot Lafleur entered his name, he was 137th on the apprentice waiting list.



The Pilotage Authority became well aware of the unreliability and deficiency of the list system and decided to abolish it. The Pilots' Committee was consulted and on June 26, 1959, the Director of Marine Regulations wrote to the Association of Pilots replying to a request made by the pilots for ten new apprentices, including two highly qualified applicants who happened to have reached the age limit. He pointed out that in 1956 the age limit had been advanced from 25 to 30 in order to give applicants more opportunity to obtain their Mate's Certificate before being licensed as a pilot, but he warned that it would perhaps be a mistake to remove the age limit altogether because of the effect on the Pension Fund. He suggested an entirely new system, i.e., cancelling the existing list of applicants and selecting apprentices through an open competition for Canadian citizens resident in the Province of Quebec, who held a Certificate of Competency not lower than Mate Home Trade and were not over 35 years of age. He added that "such a system would mean that the pilotage service would get the best men available instead of, as it is now the case, being forced to accept anybody who puts his name on the list and obtains the necessary certificate in time".

On July 20, 1959, the Director wrote again referring to recent meetings he had had in Quebec, pointing out the unsatisfactory features of the list system and adding that it was desirable for the benefit of the Pension Fund that a man be young when he enters the pilotage service. He suggested a possible new approach, that is, that applicants would not be allowed to put their name on the list until they had obtained a Mate Home Trade or Second Mate Foreign-going Certificate and that an age limit should be imposed. He pointed out that this system would encourage a good man with true ambition to work hard to obtain the required certificate before reaching the age limit and he submitted to the Pilots' Committee a draft of the amendments that would be necessary to implement the proposal (both letters filed as Ex. 727).

This was but one of the many problems resulting from the apprenticeship system. Following this suggestion by the Pilotage Authority the Pilots' Corporation decided that the whole question should be thoroughly studied by their "Committee of Admission and Promotion" whose task was to try to find a workable formula for a new and efficient apprenticeship system which would emphasize raising the standard of qualifications. The Committee worked steadily, engaged the help of an outside expert, Mr. Jean-Marie Martin, then Dean of the Social Sciences Faculty at Laval University, and held many meetings with representatives of the Authority. Proposals were made and studied and finally a new system, satisfactory to all concerned, was arrived at and approved. It came into force by an amendment to the District By-law dated March 23, 1961 (P.C. 1961-425—Ex. 429). All the expenses involved were borne by the Pilots' Corporation.

Under the new system, the Board of Examiners now plays an active part throughout in the selection of a candidate and of his training until his pilot's licence is granted. This is a permanent Board defined in the By-law and composed of the Regional Superintendent as Chairman, three members of the Pilots' Committee and one representative from the Department of Transport.

The composition of the Board of Examiners was, and still is, a point of contention because the shipowners insist on their right to be represented. In his Annual Report reviewing the events of 1961 the President of the Pilots' Corporation told the pilots that they had succeeded in retaining their representation of three on the five-member Board of Examiners instead of the minority position of two representatives originally intended. The President added that the pilots had thereby retained control over the choice and training of future pilots (Ex. 683). For the Commission's views on the matter, vide Part I, Gen. Recs. Nos. 19 (p. 515) and 25-37.

The membership of the Board and the new and active rôle they now play in the selection of candidates and in their qualifications and training ensure that both the Authority and the pilots are constantly informed about recruiting and the progress made by the apprentices.

In the new system the open list of applicants is abolished, a standard of education is required and applications are sought only when it is anticipated that apprentices will be needed. The first duty of the Board of Examiners is to make sure that there is always a sufficient number of candidates to meet the expected demand but, on the other hand, their appraisal should be as exact as possible in order to give the candidates a reasonable assurance of acceptance as an incentive to pursue their studies and to obtain the highest qualifications. As stated earlier, the number of pilots is determined by the Authority; the number of apprentices is also determined by the Pilotage Authority but only after consultation with the Pilots' Committee. With the foregoing in mind the Board of Examiners decides and recommends to the Authority when candidates are needed and in what number.

When the Pilotage Authority has authorized the acceptance of a certain number of candidates, applications are sought through advertisements in the newspapers (By-law subsec. 26(2)), which set out the basic requirements, academic and otherwise (see advertisement published on May 8, 1965—Ex. 1461(g)). The applicants, in addition to being Canadian citizens residing in the Province of Quebec, must be between 16 and 30 years of age, able to speak and understand English and French, of good character, physically fit and with at least a Grade 10 education. The applications are examined and the candidates that meet the requirements are interviewed by the Board of Examiners which selects the required number from all the applicants by accepting those best qualified. With the approval of the Authority these be-

come candidates for apprenticeship. In this manner their number is always limited and in line with the expected requirements.

In addition to the marine Certificate of Competency that was required under the old system, the candidate must acquire an academic education in navigation before being accepted as an apprentice. The requirement in this field is a diploma granted after two years at L'Institut de Marine de la Province de Québec in Rimouski or "other marine school approved by the Authority and recommended by the Pilots' Committee". Following representations made by the pilots, the Institute has now been transferred to Quebec City with a branch at Rimouski where the first year schooling is given. The official name of the Institute is "L'Institut de Technologie Maritime du Québec".

Captain Gendron, who was Commanding Officer of the Marine Institute at Rimouski from 1948 to 1959, stated that in his experience seamen who merely do time at sea lack the opportunity to study theory as they should. Most of them have only Grade 11 education and when they are at sea further studies are neglected. He stated that in order to become a good officer nowadays one needs a good specialized knowledge of physics, mathematics and oceanography, subjects that those who merely go to sea have no opportunity to study. They learn these subjects at l'Institut and similar schools.

There is also an added advantage in the requirement that candidates must have attended a marine school because their personal and moral qualifications are better known after a course of special training, very strict discipline is maintained and the unruly students are soon discovered. The diploma of the Marine Institute not only means academic qualifications but represents good character and discipline.

The Marine Institute was established by the Province of Quebec in 1944 to provide the needed theoretical knowledge to acquire a Second Mate Foreign-going Certificate, although this minimum is exceeded in many subjects. French and English are also taught. The diploma of the Institute is accepted for entry into the 12th Grade scientific course in the Province of Quebec, but counts for only one year instead of two because of the highly specialized subjects taught.

When Captain Gendron was head of the Institute, prospects for a successful career in the Canadian Merchant Service were dimmed by the disappearance of ocean-going ships under the Canadian flag and it was his suggestion that the school should be used to prepare candidates for apprenticeship in pilotage. His idea was tried first in the Montreal District and then, after many meetings with representatives of the Pilotage Authority and the Corporation of Pilots, two years at l'Institut became a requisite for apprenticeship and was included in the By-laws of both Quebec and Montreal Districts.



These two years do not form part of apprenticeship training but are a requirement for acceptance as an apprentice. The school syllabus includes, as part of the general knowledge that all mariners should acquire, items which concern pilotage specifically, e.g., the sections of the Canada Shipping Act which deal with pilotage, the duties of a pilot on board a vessel, what to do in a collision, the information required by a pilot when he boards a vessel, when and how to ascertain the draught of a vessel, what to check before leaving a berth, etc. This is a general basic course in navigation and seamanship which is given to all students at the Institute, both those who plan to become officers in the merchant service and those who intend to be pilots.

The school has radar equipment, Decca navigators, echo sounders, radiotelephones, etc. Formerly it also had the use of a training vessel, *St. Barnabé*, but when that ship was no longer available the school authorities arranged with certain steamship companies to take students on a one-month apprenticeship. In 1969, the Department of Education of the Province of Quebec placed a vessel of Messabec Ltée. at the disposal of the school, and part of the course is now spent on board the ship gaining actual experience in navigation. The whole course comprises four six-month periods at the Institute alternating with three six-month periods at sea (Ex. 1538(f)).

Pilotage is only one specialization of the seaman's profession and the Institute is not intended to be a school to train pilots alone but to impart general nautical knowledge. It provides the basic knowledge and training that advantageously replaces part of the long sea apprenticeship required by the old system. Practical experience at sea is preceded by theoretical courses because modern equipment demands theoretical training before instruments are used.

To encourage candidates to obtain the necessary training and qualifications as early as possible the date of the issuance of the required Certificate of Competency determines their rank on the eligibility list for apprenticeship. When a candidate obtains his First Mate Home Trade Certificate or Second Mate Foreign-going Certificate, he forwards a facsimile to the Authority accompanied by his Institute diploma and references as to his good conduct and ability during his sea service. This documentation is reviewed by the Board of Examiners. If the candidate meets the requirements, his name is put on the eligibility list as of the date of his Certificate. This criterion, however, is not in the By-law except as stated in sec. 29(2) which authorizes the Authority to select candidates on a yearly basis with the proviso that candidates who meet the various requirements in any year have preference over candidates who qualify in a subsequent year. The candidate does not have to appear before the Board in person and his name is automatically entered when he acquires his Certificate of Competency. Once on the list, he keeps his place until his turn comes to be licensed as an apprentice. As mentioned before, the number of apprentices is determined by the Authority after

consultation with the Pilots' Committee. In 1963, the number of apprentices was limited to 18. At one time there were 30, which was many more than the anticipated requirement. This over-enrolment resulted in an unnecessarily long apprenticeship with its attendant hardships. The candidates on the eligibility list fill the apprentice vacancies as they occur in order of priority, provided they are physically fit and have not reached the age limit of 33. No priority is given to the candidates who have obtained a Foreign-going Certificate, despite the fact this takes twelve months longer, but all candidates who hold either of the required Certificates are considered equal for the list, i.e., in the order of the date of their Certificate.

A Second Mate Foreign-going Certificate is superior to a First Mate Home Trade Certificate; it is harder to obtain and entails more general training and sea experience. However, the opinion was expressed that, from the pilotage point of view, the First Mate Home Trade Certificate is of more use to a pilot because it signifies experience acquired in coastal and inland waters.

During his apprenticeship the lot of the apprentice is hard since he does not receive any official remuneration. Unofficially most members of the Shipping Federation have for a great number of years given the apprentices a small gratuity for each trip performed aboard one of their vessels. Mr. Séverin Langlois, a retired pilot, stated that when he became an apprentice in 1925 he occasionally received a remuneration of \$10 per trip from certain companies. However, once the required number of trips had been performed he was allowed to take outside work. Pilot Barras' apprenticeship lasted 16 years, as seen before, but he received no remuneration from anyone since the shipping companies had discontinued their \$10 gratuity. In order to earn a living he worked during the summer months for the Canada Steamship Lines as first mate and during the winter he went to sea as a ship's officer. He made his apprenticeship trips either in the early spring or in the fall. Once someone took exception to this arrangement but he succeeded in obtaining permission from the Authority. Pilot Dussault served approximately six years as an apprentice until he was licensed as a pilot in 1958. The *ex-gratia* payments by shipping companies had then been resumed; at first he received \$9 and later \$12 per trip. In order to earn his living he could be otherwise employed with the permission of the Authority provided he performed the requisite number of trips. When pilot Rousseau became an apprentice in 1946 at the age of 26 the unofficial remuneration given by some shipping companies was \$6 per trip. Since he could not live on that, and furthermore had no means of knowing if and when he would become a pilot, he had to be otherwise employed. Like the other apprentices he did his requisite number of trips during whatever holidays he could get from the companies who employed him as Master the rest of the year. Pilot André Bédard was an apprentice from March 3, 1953, to March 3, 1958. In order to earn a living during these five years he had to resort to other occupations.

At the time of the Commission's hearing in October 1963, Robert Gilot, age 33, was still an apprentice, the third on the list (he was granted a temporary (sic) licence on June 19, 1964). He was one of those apprentices still on the old system. From 1950 to 1952 he spent two years at the Rimouski Marine School. From 1952 to 1960, when he was called to become an apprentice pilot, he served at sea, qualified as third mate and acquired his Second Mate Foreign-going Certificate. Since he was still governed by the old system, he was required to make 40 trips per year but, in 1962, he did 125 trips and, in 1963, many more. He admits that although it is good for an apprentice to make many trips the number of 125 per year is too high and the apprentice does not have time to rest, especially at Les Escoumins. However, the reason he did so many trips was that the gratuity paid by some shipping companies was his only source of income. In 1963, he needed more money because he was married and the father of one child. The gratuity which at the beginning had been \$12 per trip was increased later to \$15. Out of this he had to pay all his transportation and living out expenses. These he tried to keep to a minimum, for instance, by sleeping in the attic of the temporary office at Les Escoumins where four apprentices could be accommodated. For the same reason, whenever he had a choice he would select a vessel that would provide remuneration. In winter it is rather difficult for an apprentice to find employment; some are able to find work but many do not. When he was an apprentice pilot, he attended the winter courses given by the pilots and received a grant of \$140 from the Provincial Government to cover part of his living expenses.

As pointed out by pilot Rousseau, a candidate never knew for certain that he would be selected as an apprentice pilot and an apprentice had no guarantee that he would become a pilot; there might not be an opening while he was still the right age, or he might not pass his final examination, or he might fail his physical tests. These are risks that the apprentices still take, and of which they are aware when they apply, but the new system has improved the situation in that the number of candidates is limited to the expected requirements, thus preventing unnecessarily long periods of apprenticeship and making it possible to weed out candidates who lack interest or are unlikely to succeed.

Under the new system the minimum period of apprenticeship has been reduced to three years but the training has been intensified and the progress of the apprentices is closely followed. In each of these three years the apprentice is required to do a minimum of 70 trips within the District and to perform 20 movages. In addition, the By-law requires him to take a course every year aboard a training ship but, as will be discussed later, the training ship is no longer available. Furthermore, at the end of each year he has to pass an examination both oral and written before the Board of Examiners and, if he fails this examination, he is either put back one year or his



apprentice licence is withdrawn according to the recommendation of the Board of Examiners. Under the previous systems, as long as he performed the required number of yearly trips, there was no way to find out whether the apprentice was making any progress until he sat for his final examination after five years or more of training. It was only at that stage that the Examiners could discover that some apprentices did not have the right aptitude and would never become pilots.

Nowadays, the apprentice is despatched for trips and movages throughout the District and with various pilots in order to give him wider experience. The pilot whom he accompanies has to furnish a signed report to the Authority.

A progressive syllabus outlines the subjects the apprentice has to cover and on which he will be examined during each of the three years. This syllabus is prepared by the Committee of Admission and Promotion of the Pilots' Corporation, reviewed by the Board of Administrators of the Pilots' Corporation, studied again by the Board of Examiners and by the Pilotage Authority before it is finally approved and issued to the apprentices (Ex. 728).

The three main subjects in which the candidates are tested are navigation and rule of the road, aids to navigation and associated equipment and, most important of all, their knowledge of the navigable waters of the District. The topics, other than local knowledge, are simply refreshers with which a candidate who has obtained one of the prescribed certificates of competency should be well acquainted. There is no practical examination in acquired skill in manoeuvring a vessel, because none is available for such a purpose. However, the pilots whom the apprentices accompanied on various trips or movages could assess their aptitude in that regard, especially those who were given the opportunity to navigate certain sections of the River. The handling and manoeuvring of ships of different types and propulsion power can only be acquired by actual experience, in which regard, once the apprentice has received his pilot's licence, the grade system serves to supplement the practical experience he was previously unable to acquire.

When the special pilot system was in effect it often happened that an apprentice would be called upon by the pilot to act as relief pilot in the less dangerous sections of the District. Some special pilots were overworked in peak periods. In these circumstances a special pilot would choose an apprentice whom he knew and would ask him to take charge in the less dangerous sections such as White Island to Goose Cape and Father Point to Red Islet and during that time the pilot would rest in the chart room. For this service the apprentice was paid a certain remuneration by the pilot himself.

When the special pilot system was abolished and the workload was regulated by the roster system this irregular practice disappeared. During his training trips now the apprentice is more or less the pupil of the pilot who

shows him the leading marks, range lights and the general characteristics of the River. In addition, if the apprentice is in his last year, the pilot may give him the opportunity to handle but never to berth a ship. He plots courses, gives orders to the helmsman, but always under the immediate supervision of the pilot who remains in charge of pilotage. Such latitude is rarely given the apprentice in restricted waters. Apprentice Gilot stated that by working in various sections in that way he had covered the whole River under the strict surveillance of the pilots he accompanied.

The written examinations comprise three-hour tests on navigation and chart work; radar and aids to navigation; stability and ship construction. These are followed by an oral examination on seamanship, rule of the road, regulations and practical knowledge. The same pattern is followed in the examination set for each of the three years but the level of knowledge required increases from year to year.

Failure in any of these examinations may mean dismissal. On April 23, 1963, the Superintendent of Pilotage wrote to one candidate that although he had attained the 70% minimum, he was warned that he would have to do better in the next examination. Another was told that his failure to obtain 70% might lead to the cancellation of his apprentice licence but, since the Board had recommended he be put back one year and the Pilotage Authority had concurred, he would have to repeat his first year. At the same time he was warned that a future failure might well result in the cancellation of his licence or his dismissal as an apprentice. In such a case, apprentices who have to repeat a year are placed first on the list for that year.

The examinations are only theoretical because, as seen before, the Board has no way of holding practical examinations in ship handling. The opinion of the pilots who have been with the apprentices is not sought directly but information is passed by the pilot members of the Board of Examiners who are aware of the candidate's skill, either through their personal experience during his apprenticeship or from the reports received from the Pilots' Committee of Admission and Promotion. This committee follows the apprentice through his training and prepares a full appraisal of his training, skill and aptitude for the benefit of the pilot members of the Board of Examiners. Officially, there is no requirement for this summary in the District By-law nor any laid down procedure except that the minimum number of trips must have been done as arranged by the Supervisor.

Section 31 of the By-law provides that the apprentices are to be despatched by the local Supervisor in the same way as the pilots, that they must always keep the Supervisor informed of their whereabouts and be ready for assignments and that they are not to be otherwise employed without the permission of the Supervisor. However, in practice, (perhaps due to the fact that only the Shipping Federation vessels give remuneration to the apprentices) the Supervisor plays only a very remote part in the actual despatching.

The Authority's sole concern is to ascertain that the required number of trips and movages have been performed and, therefore, is not interested in reports of trips in excess of this minimum. For each trip, the apprentice is furnished with a source form on which appears the date, the name of the ship, the particulars of the trip and the name and signature of the pilot whom the apprentice accompanied. The Supervisor's list is compiled from those source forms.

The rules for despatching the apprentices were drafted by the Committee of Admission and Promotion and approved by the Authority after being transmitted through the Pilots' Committee and concurred in by the Supervisor. They are not regulations but merely administrative instructions from the Authority to the Supervisor.

At Quebec the choice of vessel is left to each apprentice while at Les Escoumins a tour de rôle is kept. At Quebec the downbound vessels are listed on a board and the despatching is done by each apprentice merely placing his name beside the name of the ship he chooses, provided the ship has not already been selected by another apprentice. The motives for the choice of ship and the frequency of assignment are mostly whether the ship pays an unofficial remuneration and how hard pressed the apprentice is for money. The selection of assignments to give the apprentice the widest experience possible as required by the By-law is not made by the Supervisor but is left entirely a responsibility of the apprentice himself. It is very seldom that apprentices are refused by a Master but frequently they are not paid.

At Les Escoumins and at Port Alfred the apprentices are despatched according to a regular tour de rôle because none of them lives there and they are not interested in spending any time in these ports (Ex. 1454, Appendix 3). Since most of them live in Quebec City, they try to return to Quebec as soon as possible after arriving at Les Escoumins. Their average stay at Les Escoumins is three to four hours.

Practical experience on board a training ship has always been a recognized feature of the training of apprentices in the Quebec District. In the early days, apprentices had to make what were called exploration trips of the District waters under the direction of the Superintendent of Pilots aboard vessels belonging to the Pilotage Authority. When the Minister replaced the Quebec Harbour Commissioners as the Pilotage Authority in 1906, he failed to comply with this express requirement of the law, despite the repeated requests of the pilots, and in his dissenting report the pilot member of the Lindsay Commission criticized the Minister for this failure. Later on, apprentice training was provided on board Department of Marine vessels (it is on record that the vessel *Druid* was used for that purpose) but the practice fell into disuse. When all Quebec District pilotage legislation was repealed in 1934, this responsibility of the Pilotage Authority was not retained in the new Canada Shipping Act.



When the apprenticeship system was reorganized in 1961, the By-law made it mandatory for the apprentices to attend an annual course on board a training ship. Neither the Pilotage Authority nor the Federal Government provided such a vessel but the pilots found a suitable one at the Rimouski Marine Institute, the *St. Barnabé* which belonged to the Provincial Government. But the *St. Barnabé* was placed at the pilots' disposal only once: she needed major repairs which, in the opinion of the Provincial Youth Department to which she belonged, were too expensive. Finally she was sold and not replaced, despite protests from the pilots. Therefore, that part of the practical training had to be dropped until a solution was found, although the requirement for it has not to date been deleted from the By-law subsec. 33(2)(b)).

Under the new system, cruises on board the training ship were considered of the utmost importance because they enabled the apprentices to perfect their radar course, obtain practical training in the use of marks, study the features of the River at leisure and learn the system of aids to navigation, none of which could be done effectively except in a vessel especially employed for the purpose. *St. Barnabé* was 150 feet long, twin screw, and equipped with radar, echo sounding machine and other necessary navigational instruments. Furthermore, the apprentices could practise berthing and unberthing and take charge of navigation, always under proper supervision. In 1961, all but two or three apprentices took part in the one and only training cruise, which lasted ten days. The cruise had been organized as an activity of the Marine Institute and the two pilots who accompanied the apprentices were to be paid by the Provincial Youth Department but it declined to do so. Finally, the Provincial Department gave them \$50 each and the Pilots' Corporation credited them with half a turn per day.

In a bulletin issued on August 23, 1961, by the Quebec Pilots' Corporation (Ex. 688) the pilots were informed that the apprentices had been taken aboard the *St. Barnabé* for a training cruise to all parts of the lower St. Lawrence where a pilot might be required, that the apprentices performed pilotage and other manoeuvres under the guidance of a pilot instructor and that the experiment had proved very satisfactory.

Although the marine Certificates held by the apprentices indicate they already have considerable qualification and experience in ship handling, much experience and knowledge remain to be acquired to become a pilot, i.e., local knowledge concerning features of the District waters, distinguishing marks, variable currents and how to counter them when berthing or unberthing at the various wharves in the District. The training vessel is very useful in providing this specialized instruction. The pilots stated that a training ship need not be large as long as there is enough room to accommodate the apprentices and instructors and allow for instruction. It would be ad-

vantageous to have a shallow draught vessel which could, if desired, proceed outside the regular shipping lanes during instruction.

The pilots tried in vain to obtain a replacement for the *St. Barnabé* from the Provincial Youth Department. Having no success, they approached the Federal Department of Transport with the request that one of their ice-breakers be made available once a year for training. This request, however, was not granted at first for two reasons: "One reason was that the departmental vessels were already committed for duty during the summer months and the second reason was that it was not the policy of the department to provide facilities of this nature to individual groups for using in their training". The Department further pointed out that, when this requirement was included in the By-law at the request of the pilots, it was not foreseen that the facility provided by *St. Barnabé* would cease to exist (Department of Transport letter dated October 15, 1965—Ex. 1456(y)). However, during recent years practical courses have been given on board ice-breakers in the winter. The pilots hope that through the Marine Institute they will eventually succeed in providing the required practical training for the apprentices (Ex. 1538(f)).

At present, there is almost no age limit and an apprentice can stay as such up to the age of 45. If he fails in his yearly examination or in his final examination, he may try again and again. The Admission and Promotion Committee of the Pilots' Corporation recommended dismissing any apprentice who failed three times but their proposal was not accepted by the Authority.

The standard of marks required in the various examinations varies with the topics, e.g., the maximum is required for knowledge of the River because the candidate either knows or does not know, but in other subjects a certain leeway is permitted.

When the apprentice has finished his three years and has passed his three yearly examinations, he still remains an apprentice and is obliged to make the required number of trips per year until there is a vacancy. Then, if he is medically fit and passes a new written and oral examination set by the Board of Examiners covering all the necessary qualifications, he is recommended for a licence.

The pilot's first licence is permanent. This is a modification of the old system whereby the first licence was temporary for one year, i.e., it corresponded to the probationary licence in other Districts. Such probationary licences were discontinued because it was felt that under the new system the Pilotage Authority had sufficient opportunity to appraise candidates. As will be seen later, under the existing system of grades the licence, although permanent, is limited as to the size and class of vessels to which the newly licensed pilot may be assigned.

The final examination, which lasts about 3½ days, is both written and oral. It is the equivalent of the examination for obtaining a Certificate of

Master Home Trade, to which is added thorough knowledge of the St. Lawrence, such as depth, current, marks and aids to navigation. The written examinations are prepared in Ottawa in both French and English and sent to the Board of Examiners in sealed envelopes for invigilation and marking. Thus, at the conclusion of the examination the Board knows whether or not a candidate is successful. The candidates are then called before the Board and advised accordingly. It was stated that frequently candidates had failed an examination but in every case the Board of Examiners was unanimous.

At the time of the Commission's hearings October 2, 1963, thirteen pilots had been admitted under the new system.

In 1964, the provision of the By-law concerning the final examination was modified. This examination covers the same subjects as the regular third year examination. It was provided that the final examination will be dispensed with if the apprentice has obtained at least 70% in his third year regular written examination and if he has passed the oral examination during the previous 24 months.

Occasionally, some time elapses before the licence is issued by the Authority, and more than once the Pilots' Corporation has found it necessary to write to the Pilotage Authority to hasten the procedure. The Corporation at times has arranged with the local Supervisor to place a successful candidate on the tour de rôle immediately without waiting for his licence in order to avoid a loss of remuneration. This obviously is illegal.

The foregoing changes were effected, not because the old system did not produce well qualified pilots, but because of progressive changes in the construction and size of vessels, their new instrumentation and methods of operation, as well as improved aids to navigation, all of which demanded of the pilots a higher degree of professional knowledge. These changes also gave the apprentices more security and encouragement.

#### *(i) Temporary licences*

For many years the District By-law and regulations have provided for issuing temporary licences to apprentices when a shortage of pilots exists. Pilot J. Séverin Langlois recalled that in his time the period of apprenticeship was seven years but in 1928, because more pilots were needed, he was granted a temporary licence for one year after four years of apprenticeship. This licence was renewed until he was granted his permanent licence seven years after his admission as an apprentice. To obtain such a temporary licence he had to pass the regular pilot examinations, both written and oral, but he was not obliged to pass these examinations again to obtain his permanent licence.

Sec. 35 of the By-law provides that, when there is a shortage of pilots, temporary licences may be issued to apprentices in order of seniority, if they are able to pass the regular examinations. These licences are of a temporary nature only, e.g., to relieve pilots whose absence is expected to be long due



to sickness or other reasons. When the requirement no longer exists, the temporary pilots revert to the status of apprentice (Part I, p. 270).

In addition, temporary licences are issued pursuant to sec. 338 C.S.A. on an annual basis to senior pilots who have reached the age of 65 and until they are 70, provided they remain physically fit (Part I, p. 267 and pp. 361 and ff.).

The Pilotage Authority's annual returns (Ex. 534) list two categories of temporary licence:

- (a) "Temporary licences under section 338 of the Act".

In 1965, for instance, three such licences were issued to pilots who had reached the age of 65.

- (b) "Appointed pilots with temporary licences".

For instance, eight are shown for 1964 and five for 1965. The list of Quebec pilots compiled by the Authority as of May 1, 1964, shows in addition to sixty-three permanent licences and fourteen temporary (probationary) licences of this type (Ex. 650), all issued to young men.

Since temporary (probationary) licences were abolished by the 1961 By-law amendment (P.C. 1961-425) these entries were confusing and an explanation was sought.

On May 6, 1966 (Ex. 1466(j)) the Pilotage Authority reported that during the period 1961 to 1965 no temporary licences had been issued under sec. 35 of the By-law, and those that were issued (unless pursuant to sec. 338 C.S.A.) were, in fact, probationary licences for one year's duration.

The temporary licence issued June 19, 1964, to J. Emile Robert Gilot is one of these. It reads as follows:

TEMPORARY LICENCE AS PILOT  
GRADE "C"

OF A VESSEL LIMITED TO 2,000 NET REGISTER TONNAGE  
TO: J. EMILE ROBERT GILOT

WHEREAS, IT HAS BEEN REPORTED TO ME THAT YOU HAVE BEEN FOUND DULY QUALIFIED TO FULFIL THE DUTIES AS PILOT OF A VESSEL NOT EXCEEDING 2,000 NET REGISTER TONNAGE IN THE PILOTAGE DISTRICT OF QUEBEC, I DO HEREBY, IN PURSUANCE OF THE AUTHORITY VESTED IN ME BY THE CANADA SHIPPING ACT, GRANT YOU THIS PILOT'S LICENCE IN AND FOR THE SAID DISTRICT OF QUEBEC.

THIS LICENCE SHALL BE VALID FROM THE NINETEENTH DAY OF JUNE, 1964, UNTIL THE EIGHTEENTH DAY OF JUNE, 1965.

GIVEN UNDER SEAL AT OTTAWA, THIS FIFTEENTH DAY OF JUNE, 1964.

Minister of Transport as Pilotage Authority  
for the Pilotage District of Quebec.

.....  
Signature of Pilot.

In the past, a licence of this kind could be cancelled in the event of unsatisfactory service and the temporary pilot reverted to apprentice. This was done occasionally, e.g., the first entries of the record of the pilot who was later involved in the collision between the C.C.G.S. *Cartier* and M.T. *Seven Skies* on July 18, 1963, read as follows (Ex. 1466(k)):

"April, 1956—Failed pilotage examination.

August 16, 1956—Temporary licence issued—after second attempt at examination.

November 19, 1956—*Wolfgang Russ* under his charge collided with *Asia*. Pilot's temporary licence withdrawn January 2, 1957, as a result of collision and he reverted to an apprentice pilot for the 1957 season of navigation.

February 6, 1958—Second temporary licence granted.

February 6, 1959—Permanent licence granted."

As seen earlier, the probation period was eliminated in 1961 when a complete new scheme of apprenticeship was drawn up. Since the apprentices now have to pass an examination every year, it was felt that by the time they are ready to be licensed as pilots the Authority has had ample opportunity to appraise the candidates and weed out those who prove incompetent or unreliable. For comments, vide Part I, p. 269.

Licence and grade should not be confused: there is no such thing as a Grade A licence, or a Grade B licence, or a Grade C licence, but only permanent licences, the holders of which are classified as Grade A, Grade B or Grade C pilots (District By-law, sec. 24).

However, the practice of issuing temporary licences continued to be followed after 1961, apparently because no one realized that it was no longer legal (Part I, pp. 267 and ff.). The Pilotage Authority informed the Commission on May 13, 1966, that instructions had been issued "to drop the word 'Temporary' forthwith" (Ex. 1466(j)). However, the 1968 annual report shows that the illegal practice is still being followed; five new pilots are shown to have been issued temporary licences while two temporary pilots were issued their permanent licences that year.

The By-law also provides transitional measures to preserve the acquired rights of those who were candidates and apprentices under the old system. The old list was retained but was closed and its conditions were modified. Apprentice Pilot was one of those affected. Depending on the stage of their training, a greater or lesser number of the new requirements were made applicable to them. The first step was to eliminate from the old list the names of those who were no longer interested or likely to be called. Letters were written to those whose names appeared on that list to ascertain whether they were still interested. If they answered in the negative, or failed to reply, their names were struck out and they were informed by a letter to that effect. No one protested.

The By-law also contained transitional provisions for the apprentices. The ultimate aim was to send all candidates to the Rimouski Marine Institute before they became apprentices but it was impossible to change the system without warning and to deprive the apprentices of the credits they had acquired to date. They were then divided into four categories:

- (a) those who had completed their apprenticeship;
- (b) those who were almost through;
- (c) those who were half way through;
- (d) beginners.

The first two categories were unaffected by the new system because they were then either qualified or about to be; those who had completed 30 months of service toward a certificate were required to attend the Rimouski Marine Institute for one year and those who had less than 30 months of apprenticeship were required to attend the Marine Institute for two years. At the time of the Commission's hearings, the list of the three first categories was almost exhausted, which meant that most candidates were under the new system by then.

(ii) *Nepotism under the 1860 Corporation system*

It has been charged that prior to 1920 when the Pilots' Corporation administered the service one had to be the son of a pilot, or at least a close relative, to be accepted as an apprentice.

Retired pilot Jean Baptiste Cyrille Pouliot, who was licensed in 1916 after a seven-year apprenticeship, explained the situation. He denied the charge but explained that to become an apprentice one had to acquire a share from a pilot and a pilot had only one share that he could dispose of. At that time, the Pilots' Corporation had various assets. Up to 1905, they owned the three pilot schooners stationed at the Bic boarding station and also the equipment at the pilot stations. These assets had been acquired by the Corporation with money from the common fund and they were treated as belonging to the active pilots in co-ownership. Each share was valued at \$500. When a pilot retired he was not entitled to receive the value of his share from the Corporation but while on the active list each pilot was entitled to have one apprentice, i.e., someone to whom he could transfer his share when there was a vacancy and it was his turn to dispose of his share. If the pilot had no apprentice to whom to sell his share when his turn came, he could sell it to a friend for whatever price he could get. However, once the apprentice was accepted he was not attached to that pilot but served his apprenticeship with all the pilots to learn the "tricks of the trade".

The witness came from a family of pilots: both his granfathers were pilots and so was his father. However, when he wanted to be admitted as an apprentice his father's turn to sell his share had not come and his father



was obliged to buy him the share of another pilot who was permitted to sell it to any one he chose. The purchase price was \$500. (Vide Part I, p. 552.)

(iii) *Admission and Promotion Committee*

The pilots as a group as well as individually now take a very active part in the training of apprentices, both by over-seeing the progress of their training and their general behaviour, and by organizing lectures and courses through their standing Committee of Admission and Promotion.

As seen earlier, when the pilots heard in 1959 that the Authority intended to effect drastic changes in the unsatisfactory apprenticeship scheme, they feared that if they remained inactive and uninterested they would soon lose whatever control they had over the selection and the training of the candidates and apprentices. Therefore, they entrusted the task of studying the question to a Committee of Pilots which, when the Corporation was formed, became the permanent Committee of Admission and Promotion with increased responsibilities (section 40 of General By-law No. 1 of the Pilots' Corporation, Ex. 672). It is composed of four members, two of whom are elected by the general meeting and the other two appointed by the Board of Directors of the Corporation.

The Commission was informed that the Committee's main functions are to care for the apprentices, to help them in their training, to facilitate their studies, to see that they perform the required number of trips, to make sure that the stipulated procedure is followed to evaluate their character, to observe their behaviour (even the way they dress when on duty), to keep a record of their progress, and eventually to make reports and recommendations. This Committee, as seen earlier, was originally responsible for the studies and research on which the re-organization of the apprenticeship system was based, with the aim of ensuring higher qualification standards. Later, it was given the responsibility for ensuring that the training keeps pace with technical changes in ship construction and advanced methods of navigation.

The Committee does not take part in the application of the grade system; it does not exercise any supervision over the licensed pilots except indirectly, e.g., if a pilot refuses to take an apprentice with him. This happened once and the Committee wrote to the Authority asking it to ascertain the circumstances in order to find out whether it was the apprentice's fault. The case was investigated by the Supervisor.

The Committee concerns itself exclusively with the apprenticeship system and the apprentices. It has no disciplinary or administrative power, its rôle is to advise, assist and report. The Committee simply makes suggestions and reports to the Board of the Pilots' Corporation which, in turn, if it concurs, transmits them to the Pilotage Authority, which alone has power over the apprentices and their training.

It is not an objective of the Pilots' Corporation that this Committee should eventually select or examine the apprentices since these duties belong to the Board of Examiners of the Pilotage Authority.

As far as the grading of pilots is concerned, the Pilots' Corporation limits its intervention to recommendations on general policy.

Soon after its formation in 1961, the Committee of Admission and Promotion, in close co-operation with the Supervisor and with his approval, organized the apprentices' training and drafted rules for despatching them on the basis of experience gained. These rules are signed by the President of the Pilots' Corporation and by the District Supervisor (Ex. 688). The actual despatching of the apprentices is attended to by the Supervisor and the function of the Committee is limited to the preparation of a programme that the apprentices are requested to follow.

The Committee follows the activities of the apprentices closely. It keeps an up-to-date list of apprentices indicating their qualifications, sea service, the certificate they hold, whether they attended the Marine School, etc. It also keeps the apprentices under observation and records their activities based on the report the Committee asks every pilot to forward whenever he has an apprentice with him, which contains a description of the trip made by the apprentice and the pilot's appraisal. These documents relating to his performance are not sent to the Board of Examiners but are for the use of the Admission and Promotion Committee only. However, before any examination, the Committee forwards a report on the candidates to the Corporation's Board of Directors, three members of which are on the Board of Examiners.

Although the Committee has no power to discipline the apprentices, it occasionally sends a letter to an apprentice suggesting better conduct or adherence to the training program and pointing out that it will make a report to the Authority if there is no improvement. Frequently, the Committee has had to send observations to the apprentices, mostly about their absences, their requests for leave and the number of trips they had to do.

Prior to the creation of the Committee, there were no such rules for despatching the apprentices and no one exercised any surveillance or showed any interest in them (except keeping a record of the trips they had done) with the result that the apprentices were left entirely to themselves.

The pilots are kept informed of the activities of the Admission and Promotion Committee through the bulletins containing topics of interest to the pilots that the Corporation of Pilots issues periodically. On February 3, 1961, for instance, a bulletin told them about the formation of the Committee and its functions; that the Committee, together with the Board of Directors, had met with the Pilotage Authority in Ottawa in order to make the final revision of the new apprenticeship By-law before submission to the Privy Council; and that they were awaiting the Council's approval.

The pilots were also told that the Committee had met with the Deputy Minister of the Provincial Youth Department to obtain permission to give lectures in Quebec with the same remuneration for both instructors and apprentices as obtained at the Rimouski Marine Institute, but that their suggestion had not been favourably received.

In another bulletin dated March 27, 1961, a new programme of studies and training was explained to the pilots and they were also informed that the Committee had been successful in obtaining from the Provincial Government an allowance of \$60 for those students attending winter courses who had no other income. It was pointed out that, in order not to add to the expenses of the Corporation, the organizational cost of the training programme and of the winter courses was being paid out of the remuneration that the pilot teachers received from the Provincial Government. The bulletin also indicated that the Corporation was making new representations to have the Marine Institute transferred from Rimouski to Quebec.

As these bulletins show, the Committee of Admission and Promotion organized winter courses for the apprentices in addition to playing its advisory and surveillance rôle. This was an innovation because prior to 1961 the apprentices had always been left altogether to themselves and there was no formal instruction.

At first, these winter courses for apprentices were organized by the pilots themselves but since the Marine Institute was transferred to Quebec they have become a responsibility of the Institute. These courses are not compulsory because the pilots have no control over the apprentices, and also, since the apprentices are not paid, they have to be given an opportunity to earn a living. The lectures are helpful in indicating the type of studies the apprentices should follow and they also serve as a refresher for those who have already completed their studies but who still have to pass their final examination.

The lectures which are given by the pilots follow the syllabus prepared by the Authority in conjunction with the Committee and deal with matters the apprentices should learn and on which the examinations will be based.

Despite the fact that attendance is not compulsory, most apprentices attend the winter course, even those who do not have to pass the examination because they qualified under the old system. The Committee has found a marked improvement in the results obtained in examinations since these winter courses started.

At the end of the winter course, there is an examination which is neither official nor compulsory but simply gives the apprentices concerned an indication of the progress they have made.

The apprentices who attend receive a small remuneration from the Provincial Government to take care of their living-out expenses.



It was suggested that it would be beneficial for the licensed pilots to attend these special lectures. It is a matter of record that some pilots attended courses of this nature at Rimouski. As expected, after the relocation of the Institute in Quebec the pilots' attendance was much higher. They have attended courses devised for qualified mariners on various subjects such as radar interpretation and radar simulator (Ex. 1538(f)).

(iv) *Grade system*

Under the present regulations, once a pilot is licensed he can not be compelled to attend further courses, take further training or pass additional examinations (Part I, pp. 358 and ff.) except (and then only if the Pilotage Authority so directs) as a condition attached to the reinstatement of his licence if it has been cancelled for any reason or has been forfeited for two years' non-usage pursuant to sec. 336 C.S.A.

Pilot Michel Dussault expressed the opinion that the system is weak in this respect and observed that when, for any reason, a pilot is performing little or no pilotage over a long period of time he loses touch and his skill and knowledge are no longer up to standard. He urged that in these cases pilots should be compelled to follow refresher courses and that they should not be allowed to take pilotage assignments until they passed new examinations (vide Part I, Gen. Rec. 31).

However, the pilots in the District of Quebec are now graded more or less in accordance with their qualifications. In 1960, this grade system replaced the *special service pilot system* that had existed up to that time and thus concluded a century-old contest between pilots and shipowners.

The special service pilot system was the last remnant of the free enterprise era of pilotage that existed prior to the first incorporation of the Quebec District pilots in 1860 when the exercise of the pilots' profession was truly free. Pilots were allowed to compete among themselves for clients and Masters were entitled to choose whichever licensed pilot they wished to employ. When the pilots sought their incorporation in 1860, they abandoned competition in favour of regulated despatching, i.e., the *tour de rôle* or roster system. However, the new Act retained the right of the Master to make his choice of the available pilots and it was only when this choice was not made that the *tour de rôle* was to apply. Later, this privilege was restricted to the three names appearing at the top of the *tour de rôle* and permission was granted to certain companies to have pilots assigned to them permanently. Later still, the right to choose was abolished but the special service pilot system was retained and enlarged.

The retention of the Master's privilege to choose his pilot was a constant source of dissension among the pilots because it hampered, and at times made impossible, an adequate distribution of the workload and made the pooling system inequitable. Trouble soon developed. The pilots who were most often chosen but received only an equal share because the dues were

compulsorily pooled rebelled against the system and made petitions to Parliament demanding the abolition of the Corporation and a return to free enterprise. Instead, by an 1869 amendment to the 1860 Act Parliament reaffirmed the right of Masters to choose their pilots, despite the injustice this created for the pilots concerned.

In the Lindsay Commission Report, the pilot member pointed out in his dissenting opinion that the real cause of the trouble at that time, i.e., 1913, was the existence of this system which played havoc both with despatching and with the distribution of revenues. In 1949, Mr. L. C. Audette, Chairman of the Audette Committee, advocated in a dissenting opinion the abolition of the special pilot system, pointing out its drawbacks and noting that the choice of a pilot was not decided by his competence but was a matter of influence. Surprisingly enough, the pilot members of the Committee disagreed. It must be borne in mind, however, that by that time the financial situation of the special pilots had greatly improved because true pooling had been abolished and replaced by the new procedure that still exists today whereby the share of each pilot is calculated according to the number of trips he has performed, subject to the maximum average rule. In addition, the special pilots received from their employers a bonus they did not place in the pool.

Retired pilot Séverin Langlois stated that he became a special pilot during his first year as pilot, although he had only a temporary licence at the time, because he had had occasion to render a service to the Master of a Norwegian ship who was about to request the appointment of a special pilot. He recalled that to become a special pilot was mostly a question of friendship. When a line needed another pilot, the recommendation of their senior special pilot used to be followed and, therefore, his influence was much sought by those who aspired to such an appointment. This system was disliked by the tour de rôle pilots who retaliated by never missing an occasion to report a special pilot when he was at fault. Pilot Langlois himself had been the butt of many such adverse reports, all of which turned out to be unfounded.

The unofficial remuneration that the companies paid their special pilots as an incentive to retain their services varied over the years. In 1959, it was \$25 per passenger ship and \$20 for others; at one time, it was \$12 and when the shipowners tried to reduce it to \$9 the special pilots went on a type of strike by refusing to serve and by applying strict tour de rôle. The proposed reduction was soon abandoned. The practice existed prior to 1918. The Robb Commission in its report frowned upon this unofficial payment, which was then \$12, and the report condemned the practice as pernicious and illegal and recommended that it should be abolished.

Under this system an equal distribution of work was impossible. In 1958, for instance, while the fully active tour de rôle pilots did an average of 88 trips, 10 special pilots did an average of 109 trips each. They were so over-

worked that they had to resort to employing an apprentice pilot as a relief in the least difficult sections of the River in order to get essential rest.

Pilot Rousseau became a special pilot two years after obtaining his licence and remained one until the abolition of the system in 1960. When he first became a Director of the Pilot's Association in 1953, he was a tour de rôle pilot and he tried to have the special pilot system abolished. He stated that the Board was controlled by special pilots who, as a friendly gesture, allowed one of the tour de rôle pilots to act on the Board and that year he was the one selected. However, he had no influence whatsoever. He stated that at that time the special pilots had the best and fastest ships to pilot, they were not subject to the despatching routine and had a free hand. The less attractive pilotage assignments were shared by the tour de rôle pilots. He charged that the problem could not be solved at that time because the special pilots who controlled the Board of Directors were working hand in hand with the shipping interests which employed them.

He resented that system and tried to have it abolished. The procedure prescribed by the regulations governing the Association was to have a petition signed by a two-thirds majority of the members in order to pass an amendment that would be binding on the Board of Directors. He tried this but to no avail. He himself became a special pilot, he said, in order to benefit from the financial advantages of the system, although he still remained opposed to it and waited for his chance to have it abolished. The existence of that system was the main problem of the pilots in those years. An opportunity to solve it came when there was enough dissatisfaction among the pilots to bring about the election of a new slate of officers for the special purpose of abolishing the system.

Pilot Roland Barras, who was President of the Board that was defeated in that election, stated that when he was on the Board of Directors of the Association the Department seemed especially in favour of abolishing the system but, since the majority of the Board members and of the pilots were special pilots, the Board was not in favour. In 1959, out of 77 pilots 39 were special pilots (Ex. 590).

On October 21, 1959, at a meeting of the Advisory Committee, Mr. Cumyn, Director of Marine Regulations, brought up the question pointing out that the privilege of having special pilots had been extended to a much larger group of ships than was originally envisaged, with the result that a sizeable fraction of the entire traffic fell within this class. He pointed out that the system was abolished in Montreal in 1959 with the introduction of a system of grading. The pilot representatives on the Committee countered with the comment that the By-law of their Association would not permit an arrangement whereby some pilots received a larger share of the earnings than



others and they also cast doubt on the authenticity of the list of pilots' signatures, to the number of 42, who had signed a statement requesting the Department to abolish the system.

Captain D. R. Jones, the Superintendent of Pilotage, who drafted the minutes of this meeting, added "the impression was gleaned that this matter of special pilots would possibly be a major feature in the election of the pilots' representatives in the forthcoming winter, and as the present Board does not appear to enjoy the confidence of the body of pilots on this issue, the election may well produce a radical change in the membership of the Committee."

After the 1960 election, the new Board of Directors immediately appointed a special committee to study the matter and, acting upon its recommendations and with the assent of the majority of the pilots, in a letter written by their legal counsel dated February 12, 1960, they agreed to the proposal while pointing out to the Deputy Minister that their agreement was subject to the necessary tariff adjustments "to compensate for the loss of income privately received by the special pilots."

The Department implemented the first part of the agreement by a telegram, dated March 30, 1960, in which the pilots were informed by the Pilotage Authority that the special pilot system had been abolished and replaced by a grading system, but it failed to implement the compensation agreement. This almost resulted in a strike as will be reported later (Ex. 683).

Pilot Koenig charged that when the Corporation with pilot Rousseau as its first President took over in 1960 there was a campaign all winter in favour of abolishing the special pilot system. He claimed that the pilots' assent was obtained by misrepresentation, i.e., that they were led to believe that the bonus the special pilots had been drawing from the shipowners would not be lost but would be embodied in a tariff increase. He also charged that this argument which led many pilots to support the proposal was, in fact, a misrepresentation because the Board of Directors was not certain that the tariff would be increased.

The facts of the case, however, are different and, as will be seen later, there were serious reasons to believe, even assurances, that there would be full compensation through an adequate upward revision of the tariff.

The change was incorporated in the By-law by an amendment dated June 2, 1960 (P.C. 1960-756, Ex. 429) cancelling sec. 24 of the 1957 By-law dealing with special service pilots and replacing it with a new section which provided that pilots would be graded in three categories: Grade A for a small group of pilots, specially chosen by the Authority on the basis of seniority and good record, to take charge of the most difficult assignments; Grade B for the remaining fully qualified pilots; and Grade C for pilots of less than three years' service, who were limited to small vessels.

The new system gave more incentive to young pilots who could hope to become Grade A pilots eventually by further qualifying themselves and by maintaining a good record.

Another amendment in 1961 (P.C. 1961-425) provided that Grade A pilots would be assigned to any vessel, regardless of size, Grade B pilots to vessels not exceeding 10,000 tons and Grade C pilots were divided into two categories: within the first year after obtaining their licence they were limited to vessels not exceeding 2,000 tons (raised to 3,000 tons by P.C. 1965-1772, dated June 23, 1965) and in the second year, and subject to satisfactory service, to vessels not exceeding 4,000 tons. The tariff was amended by the inclusion of a surcharge of \$25 on vessels reserved for Grade A pilots, i.e., those exceeding 10,000 tons.

Grade B is the basic grade of the full-fledged pilot from which he can not be demoted but, since Grade A is based on seniority and on good record, a demotion to B is possible, and, since permission for C-1 or C-2 pilots to handle larger vessels is based on satisfactory service, promotion can be delayed. From the institution of the grade system up to February 8, 1966, this power of the Authority was exercised in Quebec only twice (Ex. 1461 (z)):

- (a) Following the grounding of M.V. *Tautra* on May 19, 1962, an inquiry was held under secs. 568 and 579 C.S.A. The pilot's promotion from Grade C-1 to Grade C-2 was delayed until September 22, 1963, and this, in turn, delayed his Grade B until September 22, 1964.
- (b) As a result of the inquiry under secs. 568 and 579 C.S.A. into the grounding of M.V. *Irvingstream* in Quebec harbour November 25, 1962, the Grade A pilot was suspended for one month and demoted to Grade B.

In 1963, in the case of the pilot involved in the collision between C.C.G.S. *Cartier* and M.T. *Seven Skies* the Departmental Revision Committee recommended that, in addition to a certain period of suspension, the pilot be reclassified as Grade C-1. This recommendation was agreed to by the Pilotage Authority but when the time came for its implementation it was realized that this was not permissible under the present By-law (Ex. 1466 (k)).

As far as the Pilotage Authority is concerned, the Quebec District pilots receive whatever dues they have personally earned (this is not true in practice). Hence, under this system the remuneration of the pilots would increase with higher grades. The Class C pilots would be affected most because they are limited to assignments which pay smaller dues but the system also has the advantage of making it possible to shorten the apprenticeship period. The pilots have reported that experience has shown that the system is working satisfactorily.

In 1963, there were 10 Grade A pilots all, with a few exceptions, chosen from the senior pilots.

The grade system in the District of Quebec was to be abolished in 1967 by a judgment rendered by the Exchequer Court on Oct. 10, 1967, in the Gamache case (see below), confirmed by the Supreme Court of Canada on the legal ground that it was not within the powers of a Pilotage Authority to establish different classes of licence, a Pilotage Authority not being authorized under Part VI of the Act to limit licences as to competency. Hence, since then, the grade system in the District of Quebec does not legally exist and the provisions that are still in the By-law are as inoperative as if they had been formally repealed by a By-law amendment.

Pilot H. E. Gamache had instituted against the Pilotage Authority an action in an attempt to be reinstated to Grade A. Prior to the establishment of the grade system, he held a regular licence which was permanent and unlimited as to competency. When the grade system was adopted he was automatically granted a Grade B. Later, he was promoted Grade A by the local Supervisor whose decision was reversed by the Ottawa Pilotage Authority's advisers. He then sued the Pilotage Authority seeking his reinstatement to Grade A, and in an alternative conclusion he asked that the By-law provisions instituting the grade system be declared void as *ultra vires*.

The grade system had proved to be a definite improvement in Quebec and a necessary feature in a system of fully controlled pilotage which ought to be retained. After this judgment, the only possible way to maintain it legally would have been to have the Act amended by Parliament to provide either for the power to create grades to be added to the regulation-making powers of a Pilotage Authority, followed by new regulations to that effect, or, as an interim measure until a new Act is adopted, for giving specific statutory approval to the inoperative provisions of the Quebec By-law.

Neither course was taken. When the Act was amended on July 9, 1969, by 17-18 Eliz. II c. 53, the provision (sec. 7), which gave effect retroactively and for a certain time to the *ultra vires* By-law provisions enacted by the Pilotage Authority, applied only to the By-law provisions that existed when the amendment was passed, but did not revive provisions that had ceased to exist. A special provision to that effect would have been necessary.

Despite the fact that the grade system has not legally existed since October 10, 1967, when its governing provisions in the District By-law were declared null and of null effect by this judgment of the Exchequer Court, confirmed on this point by the Supreme Court of Canada, the Pilotage Authority has continued to grade the pilots and despatch them accordingly as if the judgment had never been rendered (Ex. 1538(c)). The complainant, pilot Gamache, was reinstated in Grade A, the relief he had first sought and which was denied to him by the Courts because this could not be legally



done. Although this Commission considers that the grade system is necessary and has recommended that the proposed new Pilotage Act provide for it, it can not but condemn the decision deliberately taken by the Pilotage Authority to act illegally. This placed the Pilotage Authority in a vulnerable position and was the very reason for the sudden proliferation of Grade A pilots: their number increased from 23 in 1966 to 34 in 1968.

#### COMMENTS

The grade system has proved a significant factor in making pilotage more reliable and efficient but it is still in the experimental stage and can be improved upon. To make the system fully effective, Pilotage Authorities need the complete surveillance and reappraisal powers described in General Recommendations 26-38 (Part I, pp. 556-581). The foregoing study has also indicated four situations which should be covered in regulations.

Downgrading should be automatic after an absence of a certain duration (since the pilots' *expertise* can be maintained only by constant experience), and the longer the absence the lower should be the grade on returning to active pilotage. Periods spent in lower grades should be long enough for the Authority to reappraise a pilot's performance but should offer the opportunity for accelerated promotion.

The By-law is not clear how the grade system applies to temporary pilots. The regulations should state that it does apply and that, if a temporary licence is revoked because the need for it no longer exists, the intervening period until another licence is granted should be treated as a period of absence accompanied by the degrading and reassessment this entails. The type of licence held should have no effect on the application of the grade system since the only difference between the two licences is the lack of a vacancy in the District establishment.

The regulations should also provide measures for meeting a temporary shortage of Grade A pilots which occurs for any reason (illness, abnormal demand, etc.). Temporary replacements should be from a group of Grade B pilots selected for their skill and experience. In a system in which the number of Grade A appointments is restricted, the Grade B group contains a number of experienced pilots fully qualified to handle larger ships who have not been promoted because there was no Grade A vacancy. It is unreasonable either to delay a ship unduly until a Grade A pilot can be made available or to assign the first Grade B pilot on the roster in lieu, regardless of the extent of his experience.

As long as the right to a Grade A promotion remains restricted for considerations others than tenure of licence, qualifications, experience and good record, these other considerations (among them the number of Grade A pilots and the factors to be applied in fixing that number) should be estab-

lished by regulation. Since a lower grade is a limitation on a pilot's competency and earning capacity, he should not be denied a promotion by decisions based on the sole discretion of the Pilotage Authority. The absence of such legislation is liable to result in conflicting decisions, cause dissatisfaction and rivalry among the pilots and even be a source of litigation as has already occurred in the Quebec District. For further comments, vide Part I, p. 264.

(v) *Special cases*

The choice of a pilot by a shipowner is no longer permissible except in very exceptional circumstances.

On one occasion, an agent tried to have a pilot of his choice for a special assignment but to no avail. On October 5, 1961, the March Shipping Agency Limited requested permission for one of their former special pilots, pilot Léon Pouliot, to be assigned to their S.S. *Canuk Trader* for a trip to Chicoutimi Harbour to load a cargo of scrap metal. For further details, see pp. 147 and 321.

The Pilots' Committee was consulted and they did not agree with the request, pointing out that pilot Pouliot had not been in Chicoutimi for quite some time, that he had no particular knowledge of the St. Fulgence Channel and that his special experience with the *Canuk Trader* was not exceptional because all the pilots had had opportunities to navigate many ships of that type. Therefore, the request was denied without even being referred to the Ottawa headquarters. Captain Slocombe stated that, if it had been referred to Ottawa, the request would not have been concurred in because from what they knew of the vessel it was just an ordinary 10,000-ton tramp vessel with which all the pilots are quite familiar and that the tour de rôle should not be interfered with lightly but only in very outstanding and special circumstances. This was not such a case in his opinion.

He added that, as a rule, if the pilot first on turn feels that he is not able to perform a certain assignment in the prevailing conditions but that, on the other hand, another pilot feels quite confident he would be able to do it, the Authority might consider assigning the other pilot, provided this would not upset the feelings of the remaining pilots. If the assignment were to provoke a quarrel among the pilots, it should not be given. One of the functions of the Pilotage Authority is to try to keep a Pilotage District running smoothly and to provide the best advice to mariners. This can not be done if the pilots are quarrelling.

*COMMENTS*

This Commission can not agree with the way this case was handled. The size of the ship and the physical limitations of the St. Fulgence Channel made the trip very difficult with possible serious consequences not only to the ship but to the harbour of Chicoutimi and the public interest. This was fully recognized by the Pilots' Committee. It was a case of exception and should

have been dealt with as such. First, the ship should have been designated a class A vessel for this occasion pursuant to subsec. 11(b) of the By-law Schedule; second, it should have been entrusted to one of the most competent pilots in the circumstances, i.e., a Grade A pilot with extensive experience in the navigation of the St. Fulgence Channel. The Pilotage Authority shows a profound lack of understanding of its rôle and responsibility when in despatching pilots it gives precedence to such grounds as the "feelings of pilots" over safety of navigation and the efficiency of the service.

#### *GENERAL COMMENTS*

The Quebec pilots should be highly commended for their active participation in the realistic and practical reorganization of the method of recruiting apprentices and for their progressive training.

Apprenticeship is a necessary feature of the Quebec pilotage organization. The required local knowledge and skill to navigate large ships safely within the Quebec Pilotage District can not be acquired and retained except by continued experience. At present, qualified mariners regularly trading in these waters are not in sufficient numbers to provide a reasonable pool on which the District could rely for the selection of its pilots.

The nature of pilotage on the St. Lawrence River and the type of traffic to be served require the pilots to be mariners highly qualified in the navigation of all types of vessels and thoroughly familiar with modern developments and technology (vide Part I, Gen. Rec. No. 31). The requirement imposed on potential candidates for apprenticeship to obtain their marine qualification through formal schooling was a realistic step aimed at making the basic qualification of future pilots the best marine education available.

The active part played by the pilots through their Admission and Promotion Committee shows a rare sense of professional responsibility on the part of the Quebec pilots as a group. Full advantage should be taken of this voluntary and most efficient cooperation. Since the responsibility for ensuring the required standard of qualifications rests with the Pilotage Authority, it is considered, however, that the Pilotage Authority should not relinquish its training function which it discharges effectively at present through the permanent Board of Examiners it has created for the purpose of organizing and directing apprenticeship and assessing the apprentices' progress and qualifications. The Pilotage Authority should be prepared to require this Board to exercise closer surveillance and control over the apprentices' studies and activities if the benevolent assistance it now receives from the Pilots' Committee tends to diminish, e.g., it should be required to organize the winter courses, both for pilots and apprentices, if these are no longer organized by the pilots or do not meet desired standards.

The necessary arrangements should be made so that the Board of Examiners is in a position to appraise before licensing not only the theoretical



knowledge of the candidates but also their ability and skill. The number of apprentices is never very large and it appears that it could easily be arranged to have these candidates employed under surveillance, e.g., as navigators on board Coast Guard vessels or other Government-owned vessels, sufficiently long to permit them to acquire the necessary experience and to allow for a satisfactory appraisal.

It is considered that the grade system is a necessary requirement.

It is also considered that apprentices should be given a reasonable remuneration which should form part of the cost of operating the District; their training should be closely followed and intensified and they should not be allowed to take other employment, except with the permission of, or as directed by, the Pilotage Authority.

The concept that an apprentice should not be remunerated, indeed should pay for his training, is outdated and belongs to the past era of free enterprise when any young man could become an apprentice, provided he found a Master whom he could interest and to whom he could be indentured.

The situation has changed basically since that time. An apprentice is no longer a man with little education but an experienced mariner with a Master's, or at least second mate's, Certificate. Now, only a selected few are accepted and in no greater number than necessary to meet expected requirements for pilots. When a candidate is accepted as an apprentice, he becomes an asset to the organization and the responsibility for his specialized training is not left to him alone but is regulated by the Authority, who weeds out unsuitable apprentices as their lack of interest or inaptitude becomes apparent.

Today, an apprentice has a reasonable guarantee of becoming a pilot. It is considered this guarantee should be further affirmed by deleting the maximum age limit so that a successful apprentice may be assured of a pilot's appointment as soon as there is a vacancy and also in order that the District investment in his training should not be wasted.

One of the main prerequisites to ensure the availability of qualified apprentices when a pilot vacancy occurs is to provide them with adequate remuneration. For a great number of years, this has been done in an indirect way by some users of the service, i.e., the members of the Shipping Federation, who, by a unique gesture, have provided voluntary financial support for apprentice pilots. The members of the Shipping Federation are the main employers of pilots and they realized that without a minimum financial incentive it would not have been possible to retain the best pilot material, since these qualified mariners would not lack opportunities for other remunerative employment.

Since the training of apprentices benefits the whole pilotage service, the cost of training them and ensuring their availability should not be left to the mercy of voluntary contributions in the form of an extra charge sought from

those ships in which apprentices happen to serve. The remuneration of apprentices and the cost of their training should be a charge against the service and, hence, a District expense.

Since apprentices will no longer have an incentive to make more trips in order to increase their income, it will be necessary for the Authority to supervise their training closely to ensure they acquire the necessary specialized theoretical education combined with intensive, diversified experience.

Therefore, apprenticeship should be a full-time occupation. The Pilotage Authority should assume the responsibility for providing the apprentices with the required specialized theoretical education by setting up courses or taking advantage of existing ones. Attendance must be compulsory. A practical training plan should be devised to give as complete as possible practical experience in pilotage in District waters and in fields connected with pilotage, *inter alia*, by:

- (a) requiring that when the apprentices are not otherwise employed they accompany pilots on board vessels on all types of assignments, in winter as well as in the normal navigation season, and to all the harbours, ports or landings within the District;
- (b) making arrangements for experience on the bridge of Coast Guard vessels which normally operate in the District, including ice-breakers in winter;
- (c) providing the apprentices with the opportunity to acquire practical knowledge of all the related services, i.e., in the Harbour Master's office as assistant to the Harbour Master, at the pilot stations in Quebec City and Les Escoumins, as assistant to the Supervisor, with the Marine Traffic Control system both at the Quebec Control Centre and the Montreal headquarters and with the Ice Information Service.

The initiative taken by the Harbour Master in Quebec, who has accepted apprentices on his staff to familiarize these future pilots with the harbour, its features, organization and difficulties, is a commendable example. It is considered that a permanent agreement should be made by the Pilotage Authority with the National Harbours Board.

Re providing apprentices with practical experience on board a Government ship plying the River, a precedent was established by the Department of Transport with the Coast Guard Training College, which was created to produce corps of efficiently trained deck officers and marine engineers to man Canada's Coast Guard vessels, whereby the students are given practical training on board D.O.T. vessels. The students, who have all expenses paid and also receive a monthly salary, are required to sign a seven-year contract when they enter the College.

## (2) PILOTS' ORGANIZATIONS

The various pilots' organizations in the Quebec District and those to which the Quebec pilots belong are studied hereunder in some detail in order to ascertain (a) the reasons for such unusual proliferation, (b) the merit of the charges that the Directors of these organizations behaved autocratically and mishandled the pilots' finances, and (c) to establish the main facts on which the Commission's General Recommendation No. 25 (Part I, p. 549) is based.

The study does not go beyond 1965. Since then there have, no doubt, been certain changes in the by-laws of these organizations as well as new activities. However, there have been no substantial changes in their structure. It was considered that, for the purpose of this Report, the study of the situation up to and including 1965 was sufficient.

The Commission has been impressed by the dedication of those pilots who have had the responsibility of administering these organizations and directing the professional and group activities of their colleagues as well as by their profound respect for the liberty of the individual and their deep concern to operate frankly and legally. The evidence clearly indicates how the procedures leading to the creation of the Corporation and the Federation have been developed openly and democratically, how every effort is made to keep every pilot (including the dissidents) fully informed about the Corporation's and Federation's activities. It is significant that every pilot has the right to attend (but not to speak at) the meetings of the Corporation's Directors, a most unusual practice. It is also noteworthy that no effort is spared to ensure that there is no mishandling of money belonging to the pilots, the Corporation or the Federation; the books are audited and the pilots given any detailed information requested about financial operations.

For the Commission's comments on the usefulness and adequacy of these corporations and the legality of certain of their operations, reference is made to the study contained in Part I, pp. 84 to 95; and for the Commission's recommendation on the question, to General Recommendation No. 25 (Part I, p. 549).

Of all the Pilotage Districts in Canada where the pilots are not employees of the Crown, Quebec has the largest number of professional organizations. The multiplicity of organizations in Quebec is the result of the long past of the pilotage service in Quebec. The pilots agree that it would be preferable to have all these organizations replaced by one suitable organization but to do so would mean amending existing legislation and they fear that in the process they would lose some of the rights they now have. They are not in full agreement among themselves about the nature of such an organization and, furthermore, it would mean extra expense to bring about the necessary changes. For all these reasons they prefer to stay as they are.



In addition to being represented by their Pilots' Committee, they have three organizations operating concurrently:

- (a) The Corporation of Pilots for and below the Harbour of Quebec;
- (b) L'Association des Pilotes licenciés pour le Havre de Québec et en aval;
- (c) The Corporation of the Lower St. Lawrence Pilots.

The second named is a group member of the Federation of the St. Lawrence River Pilots (Fédération des Pilotes du Saint-Laurent) which groups the pilots' organizations of all the Districts on the St. Lawrence River. In addition, all the pilots in the District, individually by decision of the Association and later on of the Corporation, are members of the Canadian Merchant Service Guild which provides national representation for Masters and mates as well as pilots.

(a) *Corporation of Pilots for and below the Harbour of Quebec*

This Corporation, hereinafter also referred to as the Pension Fund Corporation, which was created in 1860 as a public corporation by an Act of Parliament (23 Vic. c. 123 (vide p. 40)), is the first organization the Quebec pilots had. In fact, it was a compulsory partnership to which all the licensed pilots automatically belonged. Under the supervision of the Pilotage Authority, it was entrusted with the management of the pilotage service and the distribution of the earnings of the pilots through a pooling system. In addition, when Trinity House was abolished in 1875 (38 Vic. c. 55), the Corporation was given responsibility for the administration and trusteeship of the "Decayed Pilot Fund". The Corporation organized the service on a compulsory partnership system, abolished the free enterprise system, acquired, maintained and operated pilot schooners and pilot stations, collected the pilotage earnings, paid both the service operating expenses and the Corporation expenses out of these earnings and divided the net revenues in equal shares among the pilots according to the time they had been available for duty. It also operated the Decayed Pilot Fund, or Pension Fund.

In 1914, following the Lindsay Commission Report, an Act of Parliament (4-5 Geo. V c. 48) deprived the Corporation of all its powers with respect to the examination, management and control of pilots and of apprentice pilots; the control and management of the pilot schooners, boats and other vessels; the collection of pilotage dues; and the management and control of pilotage, all of which were vested in the Minister of Marine and Fisheries (vide p. 59).

The Corporation was not abolished, but its only remaining powers were those regarding the administration and disposal of the Pension Fund and this is still the only function the Corporation exercises today. In 1950, an amendment to the Canada Shipping Act (14 Geo. VI c. 26) abrogated this last remaining power of the Pilots' Corporation by vesting the administration

of the Pension Fund in the Pilotage Authority (as is the rule in all other Districts) but this part of the amendment was not to come into force before it was specifically proclaimed. The 1950 amendment with its reservations was incorporated in the 1952 revised version of the Act. To date it has not yet come into effect, not having been proclaimed, with the result that the 1860 public Corporation still administers and controls the Quebec District Pilot Fund and does nothing else (vide Part I, pp. 18 and 437).

The main problem is that the Corporation's activities are regulated by legislative provisions that are now out of context.

From time to time it was felt necessary to amend the Corporation's by-laws but it was found that it was no longer possible to follow the stipulated procedure because the by-laws had to be approved by Trinity House or the authority which was vested with the statutory powers of the defunct Trinity House. The special provisions in the Act to ensure this succession were simply abrogated by the 1934 Act (vide 38 Vic. c. 55, sec. 413 (1906) C.S.A., sec. 395 (1927) C.S.A. and sec 312 (1934) C.S.A.). On August 2, 1935, the Corporation obtained an opinion from its legal adviser to the effect that, with regard to the modification of the pension benefits and the method of administration of the Pension Fund, the Corporation was bound by the procedure that had been imposed on Trinity House when it had the trusteeship of the Fund, i.e., by by-law published twice during two weeks in the French and English newspapers of Quebec City, followed by the approval of the Governor in Council, and published again in the Canada Gazette, and also in a French and English newspaper of Quebec City twice a week for two weeks.

On February 27, 1951, the new legal advisers of the Corporation gave a contradictory opinion, pointing out that the Corporation in its corporate activities was not bound by the procedures that had been stipulated for Trinity House. When Trinity House was dissolved in 1875 and the Corporation inherited responsibility for the Pilot Fund, it had not been decreed that the Corporation was to follow the by-law procedure of Trinity House, and that the necessary by-laws thereafter had to be made according to the procedure contained in the Corporation's own charter, i.e., in accordance with sec. 5 of the 1860 Act, i.e., a by-law had to be published at least twice for three weeks in a French and English newspaper in Quebec City, then approved by Trinity House fifteen days at least after the last publication. The advisers added that since Trinity House had been dissolved, this last requirement no longer existed and that, therefore, the Board of Directors could change the pension benefits at any time, provided this was done by a by-law duly published, and that the approval of no one, not even the Governor in Council, was required.

In 1957, it was found that the Pension Fund was in a deplorable state. The situation did not improve and in 1960 it was realized that drastic changes had to be made. These took the form of by-law amendments made in 1961 whose aim was to define the function of the Directors and to limit their powers which were unlimited before. For instance, on their own accord they could augment the benefits from the Pension Fund without the pilots' consent and without ascertaining whether the Fund could support these increases, as they did in 1959 when the Board of Directors increased the pension benefits from 15% to 17% without waiting for the report the actuaries were about to submit.

The Corporation then faced the same problem: how could the necessary amendments be made legal? After consulting their legal advisers, the Corporation had the new by-laws published twice a week for three weeks in one French and one English newspaper in the City of Quebec. No further action was taken and no approval was sought either from the Pilotage Authority or the Minister or the Governor in Council.

The Corporation is greatly influenced by the other pilot organizations. From 1922 to 1960, its Board of Directors was the same as the Board of the Association and since then it has been composed of the same members as the Board of the Lower St. Lawrence Pilots' Corporation, hereinafter referred to as the Pilots' Corporation. While this has been the practice, it obviously could be otherwise if the pilots so wished. The practice followed is to hold the annual meetings of all the organizations on the same day. The Pension Fund Corporation meeting is held last. The elections are only a *pro forma* procedure: the newly elected Board of Directors of the Pilots' Corporation is proposed for the Pension Fund Corporation and the necessary resolution is passed.

Due to the fact that the Pension Fund Corporation Board of Directors is composed of only six directors in accordance with the 1860 Act, the practice had been for one of the seven members of the Pilots' Corporation not to be a candidate for the other Board and to have a regular nomination for the six others who are automatically elected without opposition. If there were any competition, a normal ballot would be held (Ex. 1461(1) ).

The Secretary-Treasurer is the same for all three organizations; he is paid by the Corporation of the Lower St. Lawrence Pilots.

Since 1920, the administration required by the Pension Fund Corporation has been conducted by the staff of the other organization which has also absorbed its necessary expenses, including trust company charges (p. 286).

The 1961 revision of the by-laws brought the by-laws of the Pension Fund Corporation into line with those of the Association and the Pilots' Corporation and limited the Directors' powers. By-law No. 1 limits the functions of the Board of Directors mainly to investing the available funds in accordance with the law and deciding the merits of claims for benefits



from the Pension Fund. It states that the fiscal year ends on December 31, the books and financial statements of the Corporation are to be audited and all previous by-laws are repealed. By-law No. 2 deals specifically with the administration of the Pension Fund, states how pensions are to be computed, stipulates the nature and amount of benefits and those who are entitled to them. It is also provided that By-law No. 2 can not be amended except by two-thirds of the members present at a general annual or special meeting of the Corporation and that any draft amendment must be forwarded to the members at least thirty days prior to the meeting (Ex. 672).

(b) *L'Association des Pilotes licenciés pour le Havre de Québec et en aval*

By the 1914 Act (4-5 Geo. V c. 48) the Corporation had been deprived of its powers, *inter alia*, of pooling the pilots' earnings. Despite the prohibition contained in the law, the Corporation continued to claim the pilots' earnings and to operate a common fund.

One pilot, by the name of Joseph Paquet, objected and sued the Corporation for reimbursement of what he had earned. Paquet lost in appeal and the Crown brought the case to the Privy Council on the recommendation of the Robb Commission (p. 64).

While the case was pending, the pilots, who were determined to continue pooling their earnings, prepared a civil deed of partnership for that purpose which they could put into effect immediately if the judgment was not in their favour.

When judgment was rendered (Part I, pp. 66 and 187) denying the Corporation power to control the pilots' earnings, all the pilots were unanimous in their desire to maintain the pooling system and all subscribed to the partnership agreement (dissident pilot Paquet had died some time before). All the pilots who have been licensed since have signed the deed, despite the fact that membership in the Association is in no way a prerequisite to obtaining a pilot's licence. Once two pilots were unwilling to join the Association but they experienced difficulties with their fellow pilots and finally were obliged to sign up. Since that time no pilot has stayed out (Ex. 650) but no overt pressure seems to have ever been exercised to force anyone to become a member.

The partnership was first known under the name of "L'Union des Pilotes licenciés pour le Havre de Québec et au-dessous". This was changed in 1924 to its present name, "L'Association des Pilotes licenciés pour le Havre de Québec et en aval"; originally the deed of association was for a period of 25 years but this was later extended to May 21, 1980.

No request is known to have been received from any member to withdraw from the Association and no complaints were received from any pilot about the fact that they are bound to remain members during the full extent of their service as pilots.

Clause 10 of the deed provided for the continuation of the pooling system that had existed since 1860. The pilots considered that the nature of their work makes this system almost a necessity, otherwise there would be disputes and the efficiency of the service would suffer. All the pilots who have been licensed since incorporation in 1960 have signed the deed of the Association, despite the fact that they also became members of the Corporation (Ex. 592).

Clause 14 provided for aid to pilots incapacitated by illness or under suspension in the amount of 50 per cent of a normal share of the pool during the whole period of incapacitation or suspension, unless the suspension was caused by indulgence in alcohol.

Clause 24 gave the Directors almost complete control over the Association during the year for which they were elected. They were empowered to take any decisions or perform any actions that were not foreseen in the agreement and all the members bound themselves in advance to approve these decisions subject to ratification by the general meeting.

However, a change in the terms of the Association deed or in the by-laws could be effected without holding a general meeting of the members as long as two-thirds of the members agreed. This procedure became the rule. The normal method was to circulate a petition without holding a meeting. In the deed of the Association, there was a provision for an annual meeting on the second Wednesday of January (Clauses 21 and 23) but the questions brought up at the general meeting could also have been decided by signing a petition as aforesaid. Therefore, anyone who wanted to propose an amendment normally prepared a petition and tried to obtain the necessary number of signatures. If he was successful, the Board of Directors was bound by the amendment which did not have to be approved by the general meeting. (In 1953, pilot Rousseau failed with his petition to have the special service pilot system abolished.) Clause 30 concerning membership in the Guild was withdrawn in 1958 and reinstated in 1959 by petition. Some members who were dissatisfied with the Guild initiated the amendment which was signed by three-fourths of the pilots but the decision was reversed by a similar procedure the following year after Bill S-3 was submitted because the pilots felt that it was necessary to unite and, at that time, only the Guild could give them that type of united assistance.

This custom of circulating petitions was adopted for two reasons: the Association deed was a civil contract and the nature of the pilotage service made it impossible to hold a general meeting during the navigation season. Pilot Rousseau, however, believed that it was not a very good practice. It has since been abolished.

Before the new Pilots' Corporation was formed, the meeting of the Pension Fund Corporation was held first and its Directors elected; then followed the meeting of the Association where, on a simple motion, the

newly elected Directors of the Corporation became also the Directors of the Association. Both organizations were composed of exactly the same members. Today the procedure is the same, with the exception that the election takes place, not at the meeting of the Pension Fund Corporation, but at the meeting of the Corporation of the Lower St. Lawrence Pilots which does not include all the pilots. Despite this, the elected Corporation Directors automatically become Directors of the Association on a simple motion at the meeting of the Association that follows. So far the elections have been unanimous.

As shown by the minutes of the Association at meetings held in 1961, 1962 and 1963, i.e., after the formation of the new Corporation (Ex. 687), there was little discussion, if any. Most of the resolutions voted on were merely to confirm what had been done and approved at the Corporation meetings.

The Directors of the Association have never been remunerated. When the Association began they were reimbursed a certain amount for their travelling expenses if they went to Ottawa or Montreal on Association business; a 1958 amendment to the deed ruled that the travelling expenses for each Director in such circumstances were not to exceed \$30 per day, plus transportation costs. A further amendment dated May 9, 1960, authorized travelling expenses and removed the ceiling.

The existence of the Association was officially recognized by the Pilotage Authority in subsec. 11(5) of the 1957 General By-law which, prior to its amendment in 1961, stipulated that three of the five members of the Board of Examiners were to be members of the Board of "The Association of the Licensed Pilots of Quebec and Below" to be selected by the Association.

Despite the stipulation in the District By-law which made it mandatory for the Authority to pay each pilot the dues that he has earned (less the Pension Fund contribution), the Pilotage Authority has always paid these sums to the Association and not to the pilots individually. Up to 1960, the pool was administered by the Association but since 1960 it has been operated by the Corporation and the dues received from the Pilotage Authority are deposited by the Association to the account of the Corporation.

Pilot Rousseau took an active part in the pilots' organizations. In 1953, he was elected the Director of the Association who represented the *tour de rôle* pilots but was not re-elected at the next election. From then until 1959, except when attending general meetings, he did not participate in the affairs of the pilots until the submission of Bill S-3 convinced him of the necessity of grouping the pilots together, and to that end he took the lead in bringing the Quebec pilots back into the Guild. Many problems confronted the pilots in 1959: the increase in traffic when the St. Lawrence Seaway opened; the proposal to transfer the pilot station, which would mean a



little less travelling for the pilots and shorter pilotage assignments; the special pilot system; and the growth of winter navigation. He felt that the pilots could not carry on as they had so far, that solutions had to be found to these problems but that there was little chance of success with the existing Board of Directors. There was a movement among the pilots to have a new slate of Directors elected and, in 1960, pilot Rousseau was approached by some of them to let his name stand for election.

The election procedure at that time was very simple: the names of all those who wished to become candidates were posted on the blackboard by the Secretary. There might be as many as 10 or 15 names and the voting was done by secret ballot. Pilot Rousseau put up his name as requested but when the date for the general meeting came he was at Sydney, Nova Scotia, with another pilot waiting for a vessel destined for Quebec which could not be boarded at Father Point because the pilot station was closed during the winter season. The ship had been delayed with the result that he could not expect to be back in time to attend the meeting. He was urged by some pilots in Quebec to return immediately. When the other pilot agreed to navigate the vessel alone pilot Rousseau flew back to Quebec, arrived in time for the meeting and was elected Director with a complete new Board. At the first meeting of the Board he was elected President of the Association.

That was the year (1960) the Corporation was created and pilot Rousseau was elected its first President.

The Corporation was intended to replace the Association which, in the opinion of the Board of Directors of the Association, was in the interest of all the pilots. Therefore, the application forms for membership in the Corporation contained a clause whereby the applicant consented to the dissolution of the Association and the transfer of its assets to the Corporation. In addition, the applicant was requested to sign an amendment to the Association deed which provided that all the by-laws and resolutions of the Corporation and amendments thereof and all the actions and deeds of the Corporation, including elections and appointments, automatically became those of the Association, unless there was an expressed stipulation to the contrary (Ex. 672).

This second document was a precautionary measure to provide unity and uniformity in the administration and procedure of both organizations if it was felt advisable not to dissolve the Association. The consent of two thirds of the members was easily obtained but a certain number of pilots refused to join the Corporation: as of April 25, 1960, 53 had signed and by September 27, 1963, 26 others had signed, leaving only 6 dissidents.

Since the 53 signatures represented more than the required two-thirds majority, the amendment was passed automatically without the necessity of holding an Association meeting.

The charter of the Corporation was granted on May 9, 1960, and when the Board of Directors of the Association met in a special meeting May 17, 1960, the Association had ceased to function for all practical purposes. Its Minute Book was closed and for the minutes of future meetings of the Board of Directors reference was made to the Minute Book of the Corporation as of the date of incorporation.

The aim of incorporation was to have the Corporation replace the Association for all purposes, *inter alia*, pooling the pilots' earnings, but, because some pilots did not join (and are still not members), it was decided to adopt the alternative plan and retain the Association so that all pilots would be treated alike. However, it is still intended to dissolve the Association immediately unanimity is achieved. In a circular letter in 1962 (Ex. 683) the Corporation's members were informed that the number of members had increased from 65 to 71, out of a possible total of 77, and the President reminded them that it would be desirable to have all pilots members of the Corporation before the Association deed expired in 1980.

There was also the question of the right to dissolve the Association without the unanimous consent of its members which was a point of contention on account of the text of Clause 28 and Clause 29 of the Association deed. The former stipulates that with the consent of two thirds of the members in good standing any part of the partnership deed may be modified or revoked while the latter states that the partnership agreement would take effect (that was in 1924) only if signed by all of the licensed pilots but once so signed, the partnership would exist and continue to exist irrespective of the number of its members in good standing. It is suggested that the contradiction is only apparent in that total enrollment was prerequisite to the creation of the partnership but once in existence it would not be automatically dissolved if any future pilot refused to join. On the other hand, a two-thirds majority can modify it. The Board of Directors obtained a legal opinion on the matter from their counsel which was to the effect that with the consent of two thirds of the members the Association could be dissolved. This was not done, however. Pilot Rousseau stated that the main reason was that dissolution would have deprived the dissident pilots of the various benefits they derived from the Association, such as pecuniary assistance in case of illness or suspension and the advantages of the pool. He denied that the reason was to ensure that the earnings of the dissidents went into the pool, thus making them contribute indirectly toward the expenses of the Corporation, which were automatically those of the Association in accordance with the amendment to the deed.

There is always the possibility that a new pilot may refuse to join both the Association and the Corporation or may cease to be a member (re his situation with regard to remuneration and indemnity benefit, vide pp. 481-482).

The Shipping Federation suggested that the Association is maintained to enable the Corporation to obtain control of the earnings of the six pilots who did not join the Corporation and whose earnings would have averaged \$90,000 a year during the three years 1961 to 1963. The Federation pointed out that if the dissident pilots had decided to work during the strike their earnings would have been deposited in the pool because they were members of the Association. The existence of the Association also allows the Corporation to cash the cheques issued by the Authority to the order of the Association, instead of to each individual pilot, because the Association deed is considered by the Pilotage Authority a power of attorney on behalf of all the pilots. This situation would no longer exist if the Association were dissolved.

The Association continues to exist but it has no activities of its own except *pro forma* ones. The Secretary continues to keep the general minutes of the meetings of the Association separate from those of the Corporation but there is no separate financial statement. The Association has annual meetings only and there are no meetings of the Board of Directors of the Association as such.

The annual meeting of the Association is distinct from the annual meeting of the Corporation which it follows. There is an agenda that is sent to all members. The meeting is formally opened but there has been no formal election to date because a member has always moved that the Board of Directors of the Corporation become the Board of Directors of the Association, and as there has never been a counter-proposal the motion has always been carried unanimously. If additional nominations were made, elections would be held as set out in the amended Association deed (Exs. 592 and 1461 (1) ).

Although the financial statements are those of the Corporation, they could be studied at the Association meetings if a member so requested. On one occasion, a dissident pilot was refused the right to participate in the deliberations of the Corporation meetings. However, he would have had an opportunity at the Association meeting that followed, but by that time he had left. The situation is that the dissident members do not attend even the Association meetings. Therefore, since those in attendance are all members of the Corporation, they discuss and decide the same questions as those on the agenda for the Corporation meetings, and the Association meeting becomes *pro forma* in the absence of the dissident members. For all practical purposes it would be a futile move on the part of a dissident to reopen a question already decided by a vote at the Corporation meeting. Furthermore, an impossible situation would result if by chance the result of the ensuing vote at the Association meeting were different.



(c) *Corporation of the Lower St. Lawrence Pilots*

(i) *Creation of the Corporation*

At the 1960 general meetings of the "L'Association des Pilotes licenciés pour le Havre de Québec et en aval", the President, pilot Roland Barras, stated that a complete revision of the by-laws of the Association was necessary and the meeting concurred. In the ensuing election pilot Rousseau became the new President of the Association together with a complete new Board of Directors.

At its first meeting, the Board set out to implement the decisions taken at the general meeting and formed a committee chosen from all the pilots to study the proposed revision of the by-laws. In view of his experience in administration, and, since he was acquainted with the question and had advocated the revision, Past President Roland Barras was asked to sit on this committee but he declined. In addition, a letter was sent to all the pilots on January 25, 1960, asking for their suggestions.

The Committee sat many times. A first draft was prepared and submitted to the Association's legal adviser who, after studying the documents and considering the situation of the pilots, expressed the opinion that in their best interest it was advisable that they should be regrouped into a professional corporation of the kind that existed under the 1860 Act. In his opinion (dated March 18, 1960) the legal adviser stated that the Association's device had now served its purpose, but in view of the complexity of the present times the corporation system was indicated. For details of the advantages he listed, vide Part I, p. 86.

The legal adviser suggested incorporation under a Federal Act rather than a Provincial Act because pilotage is a federal matter. He pointed out that the ideal solution would be a special Act of Parliament like the 1860 Act but he added that the climate in Ottawa was not propitious at that time. He recommended incorporation under Part II of the Companies Act, since they formed a non-commercial, non-profit organization and the members continued to lease their services as pilots (Ex. 676). He also included a draft of incorporation documents and of by-laws for the suggested corporation that he had developed from the draft which the committee had sent him.

Copies of this opinion, incorporation documents and proposed by-laws, were sent to each pilot and the proposals were discussed at a study meeting held in March attended by the legal adviser. Because of their large numbers the pilots were divided into two groups; the first group met March 22, the second March 23. The bulletin calling this meeting drew the pilots' attention to the fact that the proposed draft contained many radical changes and they were asked to wait for the explanations that would be given them at the meeting before showing their approval or disapproval.

Two previous drafts had been prepared by the committee and had been studied and modified by the Board of Directors and the legal adviser so that it was the third draft that was submitted to the study meeting of the members. Each group studied the choice of incorporation or association and the proposed charter and by-laws item by item. The pilots who failed to attend either of these two meetings were provided with a copy of the third draft. The reaction of the pilots was favourable and some were ready to register immediately but they were requested to wait for the general meeting which was held March 29. Again the new regulations were studied in detail and it was only then that the pilots were told they could sign their applications for membership whenever they wished. The general meeting was not convened to obtain their signatures. Application forms were given to the pilots and they were told that incorporation would be sought when completed application forms had been received from two thirds of the District pilots.

As seen earlier, a second document was also distributed for signature. It provided for an amendment to the Association deed in case the Association was not dissolved.

During all the study meetings that preceded incorporation there was no discussion about the pilots transferring their earnings to the Corporation or the necessity of obtaining powers of attorney. Pilot Bédard, who presided at the committee study meetings, was unaware that a similar problem had arisen in another District and that each pilot had had to furnish a power of attorney so that his earnings could be paid to the newly formed Corporation by the Pilotage Authority.

There was no particular reason why the Quebec pilots were the last group to be incorporated. In their professional organization the Association was working well. When the By-law was amended it was realized that it would be advantageous to reorganize. The pilots, however, were not easily convinced and pilot Bédard spent a great deal of time explaining the advantages of the corporation system to his fellow pilots. At that general meeting 53 pilots signed the two documents. No pressure was exerted to obtain the support of the others and the only form of campaigning was the distribution of bulletins which explained the situation and urged the pilots who had not signed to join the Corporation. Pilot Barras, one of the six who did not join, agreed that he was not pressed, that he simply received the Corporation's bulletins and that the pilots were left free to sign if and when they wished. The Board of Directors of the Association waited until the signatures of two thirds of the pilots had been secured before they applied for a charter.

Pilot Maurice Koenig was one of the 53 who signed on March 29, 1960, after attending the various meetings, receiving explanations from the

legal adviser and participating in the discussions. However, he charges in his brief (Ex. 571) that "several Pilots, now wishing to withdraw their applications, were emphatically denied that privilege", but he produced no proof to support this assertion and the evidence is to the contrary.

Pilot Koenig stated that shortly after signing he changed his mind and requested the President to return his application form. This was refused. Pilot Rousseau, the President, denied the charge and stated that a few days after the meeting pilot Koenig had told him that some members were not kind to him and were criticizing him for joining and that he had gone to see the Secretary to withdraw his application form, but had since decided not to do so. Pilot Rousseau denied that pilot Koenig ever asked him to return his application. No written request to withdraw an application was ever received from anyone and this was the only occasion that a retraction was suggested verbally.

Pilot Rousseau stated that one reason why some pilots delayed their signature or even refused to join was not because they were opposed to the Corporation but because they resented the abolition of the special pilot system and the special privileges they had enjoyed. They were bitter against the majority who had voted to cancel the system. He based his opinion on the fact that the six pilots who were still dissident attended all the study meetings and from their attitude there was no reason to believe that they would ever oppose the change. Moreover, two of them were among those who, at the first meeting, wanted to sign the application for membership. The news of the abolition of the special pilot system took them by surprise at the beginning of the navigation season when some were already at Father Point waiting for their ships. As described earlier, the official word came from the Pilotage Authority in a telegram from Mr. Cumyn, dated March 30, 1960 (Ex. 688). The question had been under discussion for quite some time but some special pilots never thought that these discussions would bear fruit because of the strong opposition by the shipowners by whom they were employed as special pilots.

All the pilots licensed since 1960 have joined both the Corporation and the Association. As soon as apprentices pass their final examination they are invited by the President of the Board of Examiners who tells them the result. Successful candidates are then invited to the Corporation office where congratulations are offered in the presence of the Secretary, one of the members of the Committee of Admission and Promotion and others. Then the President of the Corporation welcomes them and explains briefly the various organizations in the Quebec Pilotage District telling them that *ipso facto* they are members of the Pension Fund Corporation, but to become members of the Association and the new Corporation they would have to sign the deed of the Association and apply for membership in the Corpora-



tion. They are also told that the Authority for which they will work is the Minister of Transport, but the attention of the candidates is not particularly drawn to the fact that once they have joined they can not resign from either the Association or the Corporation since it is assumed that this is well known.

It was pointed out that when the newly licensed pilots join they have had every opportunity to understand the whole situation because they have travelled for years with different pilots, have attended lectures during the winter and have had many chances to discuss organizational problems. Furthermore, before joining they can ask for all the information they want. However, pilot Robert Gilot stated that during the trips he had with pilots during his apprenticeship they seldom spoke about the various pilots' organizations, either Corporation, Association, Federation or Guild, and that, as a matter of fact, all he knew about them was that the pilots operated a pool system from which expenses were deducted.

Pilot Rousseau added that the apprentices are requested to sign as soon as they have successfully passed their examination, without waiting until their licence is issued. For instance, pilot Oscar Bouchard was licensed as a pilot on June 3, 1960, and he is shown as having signed the Association deed and joined the Corporation on April 22, 1960. In that case, pilot Rousseau was on the Board of Examiners and knew that the President of the Board had told Bouchard that he had passed the examination and that his licence would be issued by the Authority in due course. Therefore, in the opinion of pilot Rousseau, there was no reason for delay in joining the Association and the Corporation and he did not believe that actual possession of a licence was necessary under these circumstances since it often took the Authority a long time to issue licences.

The charter was granted May 9, 1960, incorporating the pilot petitioners under the name of Corporation of the Lower-St. Lawrence Pilots,—Corporation des Pilotes du Bas-Saint-Laurent—under Part II of Chapter 53 of the Revised Statutes of Canada 1952, known as the Companies Act. For the Corporation's aims as described in the charter, vide Part I, pp. 87-89.

The Corporation is a non-profit organization whose charter states that "the operation of the Corporation shall be effected without pecuniary gain for its members and that any profit or other benefit deriving from the Corporation shall be used to promote its objects".

The aims and powers of this Corporation are those of a truly professional organization and correspond to those of the first Corporation. The main difference (except for the question of control over the pilots' earnings) is that all the pilots were automatically and compulsorily members of the 1860 Corporation and governed by its decisions as long as they retained their licences, while membership in the 1960 Corporation is voluntary, its mem-

bers can be expelled and the decisions and actions of the Corporation can not affect non-members against their will. To do so would require a special Act of Parliament.

The by-laws provide for three categories of members: active, apprentice and honorary. In 1963, there were members of the first category only—71 active pilots. The Corporation has not yet appointed any honorary member and none of the pilot apprentices has asked to join.

The active members are (i) persons named in the Letters Patent of incorporation, (ii) all licensed pilots who are members of the Association des Pilotes licenciés pour le Havre de Québec et en aval and who applied in writing not later than 60 days after the date of incorporation, (iii) all other licensed pilots provided they apply in writing and are accepted by the Board of Directors of the Corporation.

The loss of his licence automatically deprives a pilot of his membership, but the restoration of his licence does not automatically reinstate him as a member since the approval of the Corporation Board is a prerequisite.

The by-laws provide for the suspension or the exclusion of a member from the Corporation as a disciplinary measure, but this section was inoperative at the time of the Commission's hearings in 1963 because the disciplinary apparatus provided by the by-laws had not been implemented. Sec. 104 requires the members convened at a general meeting to pass a special resolution but this had not been done.

The fact that a pilot is not a member of the Corporation does not affect his right to exercise his profession because, whether he elected or not to join the Corporation or was refused or expelled by it, he holds his licence from the Pilotage Authority and not from the Pilots' Corporation.

At the time of the Commission's hearings no request for membership had ever been refused and the only licensed pilots who were not members, i.e., the six dissidents, had voluntarily elected not to join.

The by-laws provide that once a pilot has been admitted as a member of the Corporation he can not resign his membership as long as he remains an active pilot. It was submitted by the Pilots' Corporation that this provision is not contrary to normal usage because the regulations of the Association contained a provision which was for all practical purposes similar and, in addition, the by-laws were approved by the Secretary of State (*vide* Part I, pp. 89-90). The pilots could not have been taken by surprise since they all knew about that particular clause when they signed the membership form. Pilot Rousseau believes that such a clause is necessary to maintain good administration in the organization, otherwise it would not have the desired stability. If a pilot ceases to be a member because his licence is cancelled, he has no choice when his licence is restored but returns to membership by resolution of the Board of Directors if they so decide (General By-law No. 1,

subsec. 7(b)). Re the legality of alleged compulsory membership, vide Part I, pp. 89 and 90, and Gen. Rec. 25 for the Commission's comments and recommendation.

The Corporation is administered by a Council of seven: the President, the Vice-president, the Past President and four Directors. The President is a member of the Board for a period of two years, i.e., one year as President and one year as immediate Past President; the Vice-president holds office for one year only while the four Directors are elected for two years, two being elected every year; the President is limited to three consecutive terms in that office.

As seen earlier, the Board of Directors of the Corporation is also (a) the Board of Directors of the Association, (b) with the exception of one member the Board of Directors of the Pension Fund Corporation which is limited to six by the 1860 Act, and (c) the Pilots' Committee which according to subsec. 5(2) of the Pilotage District General By-law is composed of six members. When the charter was granted effective May 9, 1960, the Board of Directors of the Association acted as the temporary Board of Directors of the Corporation until the first general meeting was held on the second Wednesday of January 1961.

#### (ii) *Meetings*

The date of the annual general meeting is fixed by the Corporation by-laws as the second Wednesday in January. In addition, special meetings may be called at any time at the request of the Board of Directors or at the request of at least two thirds of the active members. Except in case of emergency, a minimum of eight days' notice must be given each member.

The quorum is 40% of the members (sec. 53). No meeting has ever been adjourned for lack of a quorum and there has always been a large attendance, e.g., sec. 304 of the Pilots' Brief and Ex. 1466(u):

January, 1961, 51 out of 65 members, i.e., 78.5%;  
 January, 1962, 52 out of 71 members, i.e., 73.2%;  
 January, 1963, 71 out of 77 members, i.e., 92.2%;  
 January, 1964, 71 out of 77 members, i.e., 92.2%;  
 January, 1965, 76 out of 82 members, i.e., 92.7%;  
 January, 1966, 80 out of 86 members, i.e., 93 %.

The 40% quorum consists of members actually in attendance and proxies are not counted. Proxies are accepted for elections to accommodate the pilots who are on duty but all other matters are decided by a majority vote of the members present (sec. 57).

#### (iii) *Elections*

Elections are governed strictly by the procedure laid down in the by-laws. The first step is to appoint a nominating committee consisting of the Past President and four members chosen by the Board from those who



are not Directors. It must be constituted at the latest on November 15 each year. Candidates are proposed in writing on a form made available to all members by the Secretary. The nomination forms, each signed by two members and by the candidate to indicate his acceptance, must be received by the Committee by December 15 (Ex. 682). Then a list of candidates is drawn up and mailed to all members.

For the January 1963, election the Committee was formed November 14, 1962. The selected members were notified, as were all the pilot members, by a notice mailed November 16, 1962 (Ex. 682) together with a nomination form. All the offices to be filled in the 1963 election were listed: President, Vice-president, two Directors and two members of the Admission and Promotion Committee. When the Nominating Committee met December 23, 1962, they had received one nomination for the Presidency, one for the Vice-presidency and two only for the two members of the Admission and Promotion Committee, but there were four candidates for the two posts of Director. Hence, an election had to be called.

Normally, there are separate votes for President, Vice-president and two Directors. The election is presided over by a Chairman elected by the meeting and the names of the candidates are printed on the ballots (Ex. 714). Photostat copies of the six nomination forms are filed as Ex. 719.

Pilot Rousseau, who was elected President of the Association in 1960, became temporary President of the Corporation after incorporation and was re-elected at the next three annual meetings. In accordance with the terms of the by-laws, 1963 was his last consecutive year in office as President.

#### *(iv) Items for the agenda*

Every year prior to the annual general meeting it is the practice to bring to the attention of the members secs. 56 and 100 of General By-law No. 1 which set the final date for proposing any item for the agenda, either as a motion or an amendment to the by-law. These sections require that the text of the proposal be filed at Corporation headquarters at least fifteen days prior to the meeting in the case of a resolution and thirty days in the case of an amendment to the by-law.

In practice, however, when all the items on the agenda have been dealt with at the meeting anyone is allowed to bring up new business but the policy has been that no fundamental decisions are taken except with the unanimous consent of all those present and even then the Board of Directors is not bound if, after study, it is not deemed advisable to implement the meeting's decision.

Only once was a pilot refused the right to speak at a meeting of the Corporation and this was because he was not a member. At the opening of the general meeting of the Corporation in 1961 the President noted the attendance of a non-member and after welcoming him, invited him to sign the membership form, pointing out that he would adjourn the meeting in

order to enable the Board of Directors to sit for the purpose of admitting him as a member. The non-member declined the invitation. With the consent of the majority of those present, the non-member was allowed to attend the meeting but without the right to participate in the discussion. At one stage when he wanted to ask a question, he was not allowed to do so but was reminded, however, that immediately following the Corporation meeting there would be an Association meeting where, as a member of the Association, he would have the minutes of the General Meeting of March 29, 1961 (Ex. 681).

In addition to the regular annual meetings, which were held in January 1962, and following years, there were two Special General Meetings held April 4 and April 6, 1962. The latter, which lasted more than one day, was in connection with the 1962 strike which will be studied later.

The Board of Directors meets whenever required but at least once every four months. These meetings are not held in camera and, in accordance with sec. 15, any member may attend but can not participate in the deliberations. In fact, many members do take advantage of this privilege. The by-laws, however, do not provide a procedure for notifying the members of the date and time of Board meetings.

(v) *By-law amendment, cancellation or addition*

Since incorporation is under Part II of the Federal Companies Act, any amendments or additions to the existing by-laws take effect only from the date of their approval by the Secretary of State.

Changes in the by-laws can be initiated either by the Board of Directors or by one member or by a group of members:

- (A) The Board of Directors by a majority vote may pass any by-law or any amendment to a by-law which is and remains valid and effective until a special meeting held for the purpose of approving it or until the next annual general meeting, failing which the new by-law or amendment becomes void. This special power was given to the Board of Directors only after much discussion and for a reason that is peculiar to pilotage, i.e., it was deemed inadvisable to convene a general meeting during the navigation season for the purpose of amending a by-law because to hold a true general meeting would mean, in effect, a stoppage of work. This power was used once in 1961 when it was necessary to amend By-law No. 2 to provide for the payment of the \$25 premium to Class A pilots following the amendment of the District By-law. Otherwise this premium would have become part of the pool.
- (B) Any member may propose a new by-law or an amendment at any regular general meeting provided the text of the proposal is filed with the Corporation thirty days prior to the meeting.

- (c) Two thirds of the members can have a by-law or an amendment passed by having a special meeting convened at which a majority decision is obtained.
- (d) At the annual general meeting, without pre-notice, a by-law may be passed or amended by a majority decision, but the Board of Directors is only indirectly bound by such a decision and is entitled to modify it as stated above. It was pointed out that since a quorum is only 40% of the members, which in 1963 was 21 members, this procedure enabled 21 pilots to amend the by-laws of the Corporation, and *ipso facto* of the Association, without the dissident pilots being consulted.

(vi) *Remuneration of Directors*

Although the practice of granting free turns did not commence until 1960 when the new Pilots' Corporation was set up, the principle was not new. Under the 1860 Corporation system the pilots entrusted the management, both of their Corporation and of the pilotage service, to their Directors who were excused from performing actual pilotage duties during their term of office. The pilots who were chosen to be Masters of the pilot schooners which the Corporation owned were similarly treated. Since both the Directors and the schooner Masters served the common interest of the pilots as a group, they shared in the pool as active pilots, despite the fact that they performed no pilotage. The Pilotage Act, and later the Canada Shipping Act, made it obligatory for one of the Directors of the Quebec Pilots' Corporation to be on duty and present in person at one of the pilot stations to oversee despatching and to keep a journal of events for the benefit of the Pilotage Authority (*vide, inter alia*, sec. 513, 1906 C.S.A.). The law even authorized the Board of Directors to pay out of pilotage revenues each of its Directors and each of the Masters of the schooners "an additional remuneration that was not exceeding in any one year \$100 over and above his share in the net income of the said Corporation" (*vide* secs. 511 and 512, 1906 C.S.A.).

When the pilots united in a civil partnership in 1920, no provision was made to reimburse the Directors for the time they spent for the benefit of the group or to pay them any salary.

Under the "Association des Pilotes licenciés pour le Havre de Québec et en aval" the functions of the Directors were much less involved and demanding, since all administration was done by the Pilotage Authority and the Directors were left to supervise the affairs of the Association and the pooling of the earnings on a voluntary basis.

In 1957 or 1958, the question of the Directors' remuneration was raised when a pilot suggested granting them turns instead of money. His suggestion was not approved at the time but when the Corporation was formed it was adopted.



When the Corporation was formed, the activities of the Quebec pilots' organizations increased considerably and the pilots decided to compensate their Directors and those pilots who did special work during the normal navigation season by granting them free turns at the rate of half a turn for one day of work. However, they refused to give any of them, even the President, any remuneration in cash (vide pp. 481 and ff.).

Some pilots have objected to this procedure because a turn for a pilot is worth more than its monetary value in that it represents the work done as a pilot and the risk involved, such as losing one's licence, a responsibility a Director does not share when he gets a free turn.

In addition to the free turns granted, actual expenses incurred on behalf of the Corporation are reimbursed. An itemized claim has to be furnished on a form provided for this purpose (Ex. 678).

It was moved at the general meeting on January 10, 1962, that the Directors be given remuneration for work done during the winter months, i.e., \$500 for the President and \$200 for the other members of the Board. When the proposal came before the meeting the President left the room during the discussion, a secret ballot was taken and the proposal was rejected by a vote of 40 against 9 (Ex. 679).

#### (vii) *Consultative procedure*

Because it is not practicable to hold special meetings of the Corporation during the navigation season the Board has adopted a consultative procedure which involves sending a letter to each pilot, whether or not he is a member. An example is a letter dated June 5, 1963 (Ex. 638) containing the draft recommendations which the Corporation intended to submit to this Commission. Each pilot was requested to study the proposals and forward his comments to the Corporation within a given time. No answer would mean agreement. The Board received six letters which either disagreed with the recommendations or stated that they did not go far enough.

#### (viii) *Affiliation*

Sec. 85 provides for affiliation with the Federation of the St. Lawrence River Pilots and with the Canadian Merchant Service Guild and for payment of the necessary dues. It was pointed out that the Corporation continued the policy of the Association which existed prior to the Corporation. However, since the Corporation is not fully representative of the Quebec pilots, it is not a group member of the Federation but the Association, which was a founding member, remains the group member for the Quebec District Pilots.

#### (ix) *Corporation committees*

The Corporation structure, as provided by By-law No. 1, contains an innovation: the creation of committees to assist the Board of Directors, either standing committees or *ad hoc* committees. The President of the

Corporation is *ex officio* a member of every committee but in practice he does not attend all their meetings. They report to the Board of Directors. The standing committees are:

The Internal Management Committee

The Admission and Promotion Committee

Disciplinary Committee

Appeals Committee.

The Internal Management Committee, which plays the rôle of Manager, is composed of four members of the Board of Directors: the President, the Vice-president and two Directors. It must meet once a month. In practice, there were more meetings of the Board of Directors than of the Management Committee because all the Directors were available.

The Admission and Promotion Committee is also composed of four members, two of whom are elected at the annual general meeting and two are appointed by the Board of Directors. Two appointments were left to the general meeting so as to give the members the opportunity to appoint some members of this important committee. Its responsibilities, functions and activities were studied earlier.

Sec. 84 of By-law No. 1 lists the obligations of members: to abide by the regulations of the Corporation as well as the regulations and other rules concerning pilotage and to refrain from any action or conduct which might affect the efficiency and good reputation of the pilotage service, but this section is not operative since there is no power to enforce it because the Disciplinary Committee and the Appeals Committee have not been activated for lack of the requisite special resolution approved by a general meeting.

Pilot Rousseau was of the opinion that it would be in the best interest of the pilotage service if the Disciplinary Committee became operative. However, he thought that the members of this committee should come from outside the Pilots' Corporation, a solution which is not permissible under the present by-laws of the Corporation.

From time to time, other committees are formed for specific purposes, e.g., during the winter of 1960 up to 45 pilots worked on various committees, and at one time up to 25 pilots worked during the winter months on the Statistics Committee convened to study the statistics used by the Department of Transport.

#### (x) *Finance*

Section 88 of Corporation By-law No. 1 provides for annual and special dues, but this method of financing has not been adopted. Instead, the practice followed by the Association when it was active has been continued, i.e., the Corporation uses pool money to meet its expenses and treats the pool as if it were its own fund, even though it includes the earnings of non-members.

This procedure is purported to be authorized by sec. 7 of Corporation By-law No. 2 dealing with the administration and operation of the pool, which provides that administrative expenses and all other disbursements in the interest of the Corporation, or the general interest of the members, shall be paid out of the common fund before it is distributed. This by-law is ultra vires since only a specific Act of Parliament (as was the case for the 1860 Pilots' Corporation) can give the Corporation full control of its members' professional earnings (with even greater emphasis on the need for legislation to control the earnings of non-members).

This method of financing may be adopted if the unanimous consent of the pilots is obtained, since each individual pilot has the right to dispose of his personal earnings as he sees fit. The Corporation's complete control of the pilots' earnings and of the operation of the pool is purported to be derived from the provision covering the pooling agreement (Association). By a general provision added by a majority decision in 1960, the by-laws enacted by the Corporation were purported to become *ipso facto* those of the Association and, hence, part of the pooling deed. Such blanket authority without the unanimous consent of all parties concerned with the pooling deed is void since it changes the nature of the contract and, therefore, is in reality a new agreement which can bind only those who have specifically given their consent to it (vide Part I, pp. 90 and ff.).

This situation has arisen mainly as a result of confusing two legal entities which are different in nature and purpose. On one hand, the Association is merely a partnership for the purpose of pooling the pilots' earnings (hence, the assets of the partnership) while, on the other, the Corporation is a non-profit, professional organization which nevertheless may pool the pilots' earnings but only by virtue of a trust contract with all the pilots concerned. The Corporation has no proprietary rights over the pilots' earnings. Failure to realize this distinction has not only caused an illegal situation but has also resulted in a false picture of the Corporation's administrative expenses in that the annual financial statement of the Corporation follows the same format as used by the Association and no separate accounting is given of the expenses of the Corporation as such and the cost to the Corporation of administering the trust. The Corporation's financial statement treats the pilots' earnings—members and non-members—as if they belonged to the Corporation, and under Corporation *expenditures* lists indiscriminately Corporation administrative expenses and those group expenditures and reimbursements to individuals that pertain exclusively to the operation of the pool.

This confusion is the main cause of the criticism of some pilots that the Corporation is very much more expensive to operate than the Association used to be. However, when the Corporation's administrative expenses (excluding free turns) are separated from pool group expenditures and studied item by item, surprisingly enough it becomes apparent that very few



of them would not have been incurred if the Corporation had not existed and if the pilots had continued to operate under the Association.

In order to study the situation in the right perspective, the Commission has regrouped the expenditures shown in the financial statements of both the Association and the Corporation, to the extent this was possible from the details available. Miscellaneous items with no detailed explanation since 1963 have been entered *en bloc* as administrative expenses although many are group expenses such as charities, floral tributes and masses.

The following table shows for the years 1955-1968 inclusive the result of segregating Association and Corporation expenditures in this fashion. In addition, in order to convey the real picture of the cost of administering the Corporation, the monetary value of the free turns given to the Corporation Directors and to other pilots who did some work for the benefit of the pilots as a group has been added to the administrative expenses. Except for the monetary value of the free turns and for the small undistributed balance at the end of each year, the amount appearing in the first column of the table shows the total of all the pool money spent before distribution to the pilots.

POOL EXPENDITURES AND ADMINISTRATIVE COSTS  
PRIOR TO DISTRIBUTION TO PILOTS

Year	Total expenditures prior to distribution	Expenditures other than administrative costs*	Administrative Costs		
			Expenditures	Monetary value of free turns	Total
	\$	\$	\$	\$	\$
<i>Association</i>					
1955.....	10,273.11	2,974.00	7,299.11	—	7,299.11
1956.....	13,653.46	3,566.24	10,087.22	—	10,087.22
1957.....	14,391.36	4,091.43	10,299.93	—	10,299.93
1958.....	14,854.54	3,470.00	11,384.54	—	11,384.54
1959.....	18,854.39	6,366.24	12,488.15	—	12,488.15
<i>Corporation</i>					
1960.....	38,845.76	11,086.00	27,759.76	9,870.11	37,629.87
1961.....	33,820.40	14,666.90	19,153.50	6,760.75	25,914.25
1962.....	43,892.80	24,415.80	19,477.00	8,198.75	27,675.75
1963.....	46,084.56	27,425.00	18,659.56	12,739.50	31,399.06
1964.....	41,586.55	21,367.17	20,219.38	11,315.20	31,534.58
1965.....	63,087.84	33,085.67	30,002.17	8,587.28	38,589.45
1966.....	74,191.40	44,453.86	29,737.54	10,838.75	40,576.29
1967.....	95,712.20	63,665.45	32,046.75	11,119.25	43,166.00
1968.....	114,337.72	85,243.73	29,093.99	15,421.38	44,515.37

\*Exclusively comprised of group expenses except for one small item: reimbursement of expenses to pilots—which occurred only in the years 1956, 1957 and 1959, and amounted to \$15.24, \$37.43 and \$19.90 respectively.

SOURCES: Ex. 597, and Tables pp. 285 and 483.

The following table gives the breakdown for five selected years of expenditures thus segregated: 1955 and 1959 for the Association, and 1960, 1964 and 1968 for the Corporation.

Items of Expense	Association		Corporation		
	1955	1959	1960	1964	1968
<i>Administrative Costs</i>					
Staff salaries.....	\$ 3,600.00	\$ 5,334.08	\$ 7,156.12	\$ 9,012.91	\$ 13,266.39
Stamps.....	50.76	127.08	249.00	247.85	372.28
Rent.....	840.00	840.00	840.00	1,584.34	1,624.50
Telephone and telegraph	180.22	355.94	990.74	363.58	486.82
Books, stationery and printing.....	294.57	558.30	981.37	2,160.52	2,098.24
Annual meeting.....	290.64	284.83	298.53	333.72	501.31
Directors—travel.....	1,144.55	2,742.31	2,918.52	719.76	3,732.11
Representation and Directors—meetings.....	36.44	331.25	1,379.54	2,063.60	1,638.75
Legal and others.....	—	625.00	11,837.22	999.23	2,961.03
Guild meeting at Quebec	—	325.07	—	—	—
Depreciation—office furniture.....	—	—	—	424.79	538.14
Audit.....	250.00	250.00	300.00	300.00	650.00
Royal Commission on Pilotage.....	—	—	—	1,371.87	—
Miscellaneous.....	611.93	714.29	808.72	637.21	1,224.42
Total administrative costs.....	7,299.11	12,488.15	27,759.76	20,219.38	29,093.99
<i>Other Disbursements out of the Pool</i>					
Reimbursement to pilots—winter expenses.....	—	19.90	—	—	—
Contribution to Pension Fund (Trust Company fees).....	—	—	—	787.50	—
<i>Group Expenses</i>					
Guild contributions.....	2,748.00	5,000.34	3,580.00	8,523.00	10,300.00
St. Lawrence Pilots' Federation dues.....	—	1,125.00	7,120.00	11,991.67	15,268.75
Chamber of Commerce..	76.00	71.00	86.00	65.00	65.00
Gifts to retiring pilots....	150.00	150.00	300.00	—	300.00
Group insurances.....	—	—	—	—	59,309.98
Total Expenses.....	\$10,273.11	\$18,854.39	\$38,845.76	\$41,586.55	\$114,337.72

SOURCES: Exs. 597 and 1538(v).

Trust Company fees for safeguarding Pension Corporation bonds and for services rendered in the administration of the Pension Fund that have been paid out of the pool 1961-1966 (p. 502) have not been included in Corporation administrative expenses. These payments were not additional expenses of the Corporation but a further contribution by the pilots from their earnings to their Pension Fund.

Although these three organizations are administered by the same staff, because there is no satisfactory way of segregating those administrative costs such as rent, telephone, salaries and electricity which pertain to the administration of the Pension Corporation, and because the incidence of these must be small, they are disregarded, as are the flat amounts which were paid in compensation by the Pension Fund Corporation up to 1960 inclusive and which were resumed in 1968 (p. 502). The Association causes very little expense since it really became dormant when the administration of the pool was taken over by the Corporation when it was created in 1960. Disbursements on its behalf would be associated with convening and holding its annual meeting and this is only a *pro forma* procedure.

Aggregate administrative costs properly speaking over the 14-year period have shown a moderate increase considered in relation to the general increase in all parts of the economy, the greater activities of the Corporation, which were warranted and even imposed by circumstances, increased administration due to these additional activities and the larger number of pilots. In contrast, group expenditures incurred on behalf of the pilots individually have increased tremendously, e.g., the aggregate dues payable to the Guild have risen from \$2,748 to \$10,300 and when the members of the Association joined the Pilots' Federation in 1959 they incurred a liability which in 1968 amounted to \$15,268.75 paid out of the pool. The introduction of group insurances in 1965 accounted for most of the increase in the total expenditures from the pool amounting in 1968 to \$59,309.98 out of a grand total of \$114,337.72.

A review of the various operating costs from year to year shows that the increase in administrative expenses from \$12,488.15 in 1959 for the Association to \$29,093.99 for the Corporation in 1968 arose almost entirely from items that would also have been commitments of the Association. The increased administrative work required that the Secretary-Treasurer be given an assistant and it was normal that his own remuneration be increased from time to time. The increase in such items as stamps, rent, telephone and telegraph, books, stationery and printing, and annual meeting expenses was normal. Directors' expenses and representational expenses have varied from year to year according to the nature and the extent of the problems the Board of Directors had to deal with. The aggregate amount of \$5,370.86 in 1968 compares favourably with the total of \$3,073.56 incurred by the Association Directors in 1959. Legal expenses and the fees of other consultants



have varied from year to year according to the nature and number of problems encountered. Except for the cost of incorporation reflected in the 1960 item, the other expenses would have been incurred whether the Directors charged with defending the pilots' rights and promoting their interests were Directors of the Association or of the Corporation.

In 1965, the Corporation was billed for \$1,537.75 to entertain the National Committee of Pilots of the C.M.S.G. convention held at Quebec that January. In 1959, when the convention was also held at Quebec, the Association incurred similar expenses.

Group insurance covers life and medical insurance for the members of the Corporation. For income tax purposes, it was found advantageous to call these premiums a Corporation expense. The right of the Corporation to impose such group plans on its members is being challenged in court by a member (Quebec Superior Court 152.519 Jacques Dubé v La Corporation des Pilotes du Bas St-Laurent and La Confederation Life Compagnie d'Assurance-Vie) (Ex. 1538(x)).

The Corporation has no assets of its own except office equipment purchased from the common fund, i.e., all pilotage dues including the earnings of non-members. In 1958, when the Association was still functioning, these assets were valued at \$2,549.96; a 10 per cent depreciation was charged for the first time in 1964. In 1968, these assets were valued at \$5,381.39. This creates an ownership problem which would not have occurred if the purchase price had been paid out of Corporation funds derived from membership dues.

A condition of Association affiliation with the Federation is the payment of all Federation assessments which are levied without discrimination and pro-rated according to the Federation by-laws on a per capita basis among all active pilots in the Federation. Both Guild and Federation dues are paid for the six dissident members because they are all members of the Association, which is a group member of the Federation.

The Guild dues were \$48 per pilot in 1955, and \$75 per pilot in 1962; they increased to \$118 per pilot in 1968. The Federation dues vary from year to year, e.g., in 1962, there was a special assessment of \$125 per member in addition to the normal \$100 fee, making the total regular contribution to the Federation \$7,700 plus the special contribution of \$9,625. In 1968, the Federation fee was \$175 per pilot with no special assessment making an aggregate contribution to the Federation of \$15,268.75 (Ex. 1538(w)).

The Corporation reserves only a small amount to cover operating expenses during the winter months. At the end of 1968, this temporary reserve amounted to \$14,067.12.

A planned budget is not feasible because the aims and nature of the Corporation cause it to incur many extraordinary and unforeseen expenses,

e.g., it would have been impossible to anticipate the expenses involved in opposing Bill S-3. The Board has entire discretion and can authorize any expenditure without being obliged to seek the approval of a general meeting. The procedure is to have all items of expenditure approved by the Board of Directors prior to payment. However, normal recurring expenses are paid on receipt of invoices without waiting for the approval of the Board of Directors. Substantial items are not pro-rated over a period of months but are paid as soon as the invoice has been approved by the Directors.

Cheques are co-signed by the Secretary-Treasurer and one of the Directors.

According to the By-law, the fiscal year corresponds to the calendar year, but a resolution was adopted to end it December 15 in order to allow the Treasurer and auditors time to prepare audited financial reports for the general meeting held on the second Wednesday of each January.

The Secretary-Treasurer is not an elected officer, being neither a member of the Corporation nor a pilot but an employee of the Corporation. In his capacity as Treasurer he is bonded, as required by the by-law, for \$10,000 in the form of an insurance policy. As Secretary he keeps the Minutes of the meetings and is in charge of administration. He also doubles as Secretary-Treasurer of both the Association and the Pension Fund Corporation.

(xi) *Audits*

The Corporation employs the same firm of Auditors as the Association did, Samson, Bélair, Côté, Lacroix et Associés, who have audited the books of the Association and the Corporation for over 20 years.

They have never found any incident of misappropriation or fraud, the books have always been kept satisfactorily and they have never had to report any financial irregularity. They balance the earnings of the Corporation against the documents sent at the end of each year to the Department of Transport as confirmation. The bank account and the portfolio of securities in the Trust Fund are similarly verified.

Expenses are verified item by item because these transactions are not numerous; the minutes of the meetings are checked to make sure that the expenses were approved. The auditors reported that both the minute books and the bookkeeping records are well kept. They corroborated that there are no reserve or accumulated funds that could be used as a strike fund.

When the auditors verify pilotage earnings, they obtain from the Department of Transport information about the revenues derived from pilotage, movages, winter navigation, fines and other sources.

The audit is completed in two stages. Because the Corporation asks for the financial report at the beginning of January, the main part of the audit is done during November or December and the remainder is completed after December 15 when the books are closed.

During the audit, spot checks are made to ensure that the distribution was properly made and not to dummies or fictitious persons. At the request of the Corporation the details of the actual distribution of pilotage money are included as *Annex B* of the Corporation's annual financial report, to take advantage of the auditors' printing facilities and to furnish all the information in one report, but this is not part of the auditors' responsibility, e.g., they do not verify the number of turns allocated to each pilot. Their duty is to verify whether all the earnings are shown on the financial report, whether the allocations are all recorded and whether only active pilots participate. To that end they keep an up-to-date list of the active pilots and verify from the cheque returns whether funds were correctly distributed.

Each distribution is authorized by a resolution of the Board of Directors in a given amount to be divided among the pilots in accordance with the number of turns they have completed.

*Annex C* to the Corporation's annual financial statement is also not a responsibility of the auditors. It shows the details of all distributions (e.g., during 1962, there were 16 temporary distributions and one final distribution) and also lists other items of expense which the auditors verify. All expenses are supported by vouchers. This table analyzes expenses and is available at the general meeting as requested by the pilots.

In *Annex D* under the heading *General Information* the auditors also verify all those items which are reported by the Department of Transport and agree with the entries in the Corporation's books. While the auditors have no responsibility for the authenticity of the pilots' seniority list, they do verify the list with the up-to-date list they maintain themselves as stated in this Appendix.

There is a separate report from the Corporation of Pilots for the Harbour of Quebec and below (Trust Fund) but there is no longer any financial report by the Association.

Since the final distribution is based on money earned up to the date of the report but not yet collected, and since a reserve must be kept to meet the Corporation's expenses during the winter months, the final distribution is shown on the report as accounts payable to the pilots. In 1962, for instance, this amounted to \$750 per pilot.

#### COMMENTS

There is a basic error in the way the financial reports (Ex. 597) are presented in that the pilots' earnings (even those who are not members of the Corporation) are shown as assets and revenues of the Corporation and the operation of the pool as part of the Corporation's own financial operations.

In order to regularize the financial operations of the Corporation it would be necessary to implement the Commission's General Recommendation No. 25 and the procedure suggested therein (Part I, pp. 549 and ff.).



Until this is done, it is considered that the financial operations of the Corporation should be segregated from those of the pool. The first step in that direction would be to provide the Corporation with funds of its own through the imposition of Corporation dues. The financial report should also reflect the true legal situation and deal separately with the Corporation and the trust fund it administers.

(xii) *Bulletins and reports*

All pilots in the District are regularly informed of the activities of the Corporation by periodic bulletins averaging 17 per year (Ex. 688). In addition, at the annual general meeting, the President makes a detailed report which sums up the activities of the Corporation and other events during the year (Ex. 683). The only documents not sent to non-members of the Corporation are those pertaining to the Corporation exclusively, e.g., Corporation meetings and elections. However, non-members receive similar documents regarding Association meetings and since the financial statements are the same for both organizations they are sent to all pilots.

The bulletins cover every conceivable topic, e.g., the bulletin dated April 24, 1961, informed the members about the admission of new members, the retirement of pilot Lachance, group insurance, the activities of various committees, the draft replies to the briefs of the Shipping Federation and the Dominion Marine Association, the new despatching rules. A list of the official mileage of normal trips throughout the District was also given, e.g., Quebec to Les Escoumins, 123 miles, Quebec to Port Alfred, 162 miles. The outstanding accounts receivable for the years 1959 and 1960 were listed and the pilots were requested to inform the Corporation if they happened to see any of the ships involved so that recovery proceedings could be taken. Another bulletin dated September 5, 1961, served as a covering letter for the transmission of printed copies of the new by-laws for the Pension Fund Corporation, the Pilots' Corporation and the Federation. It drew the attention of the pilots to the Notice to Mariners concerning the use of accommodation ladders, as well as the fog horn at Les Escoumins, automobile insurance, a proposal from the Guild, the depth at the Irving wharf at Sillery and dredging at buoy 109. A bulletin dated March 9, 1962, included the members of the various committees of the Corporation, the member-delegates to the Federation and a report of the Guild meeting held in Montreal February 21 and 24.

The bulletin dated February 25, 1963, informed the pilots about the activities of this Commission and with reference to the Federation's brief reminded the pilots of a Federation bulletin and a questionnaire sent to the pilots dealing with legislation, administration, nature of pilotage, status of pilots, function of pilots, maritime safety, professional security of pilots, tariff, remuneration of pilots, existing conditions of pilotage in each District, organization of various pilot groups, apprenticeship and recruiting, plus other questions pertinent to the Quebec District.

Whenever briefs are received or prepared, a copy is sent to each member. Following this practice the pamphlet issued by the Shipping Federation and the submission of the Dominion Marine Association to the Minister dated April 14, 1961, regarding exemptions, were sent to the pilots, as was the brief to this Commission prepared by the dissident member, pilot Koenig.

In his annual address to the Corporation, the President reviews all the activities and gives necessary explanations (Ex. 683). For instance, in 1960, he told the pilots that a great deal had been accomplished through the efforts of the officers of the Corporation who worked hard without remuneration. He pointed out that the turns that were granted in lieu of remuneration covered but a small part of the actual work performed. He explained the extraordinary expenses that had to be incurred to defend the interests of the pilots: e.g., in the spring, they had to prepare a submission to the Department to present their demands and later on, in order to answer the pamphlet published by the Shipping Federation, it was necessary to make representations to members of Parliament and Ministers and to mount a press campaign. He pointed out that all difficulties were not over because the Dominion Marine Association had presented a brief to the Minister to obtain further exemptions and the Shipping Federation had filed a brief with the Department complaining about the pilots; therefore, additional extraordinary expenses were to be expected next year.

(xiii) *Dissidence among pilots*

The Quebec District pilots are not unanimous on the subject of the type of organization they should have. Some pilots have refused to belong to the Corporation; in 1963 there were six—all licensed prior to 1960. Moreover, a feeling of dissatisfaction was apparent: one pilot, a member of the Corporation, pilot Maurice Koenig, presented a brief to the Commission (Ex. 571) requesting to be heard to voice his grievances; and furthermore, after the Quebec hearings, a petition in writing dated March 12, 1964, was presented to the Commission by 21 pilots but five later withdrew (Ex. 1322).

Of the six pilots who refused to join the Corporation, none asked to be heard or volunteered to give evidence. In order to understand the reasons for their disagreement, the Commission subpoenaed one of them—pilot Roland Barras, President of the 1959 Board of Directors, who was defeated together with all the other Directors at the 1960 election by the new group that was later instrumental in bringing about basic changes in the pilotage organization.

Pilot Barras stated that he prefers the Association to the Corporation for two reasons:

- (A) He feels that he is more protected personally by the Association than by the Corporation. For instance, he expressed the opinion that in the case of a strike by the Corporation, if the shipowners decided to sue the Corporation, it would be the members who would

have to pay eventually while the Association could not be sued as such and a member of the Association can not be affected by such legal proceedings unless he is sued personally.

- (B) He is further of the opinion that the operation of the Association is much less expensive. In particular, no free turns were ever given to compensate the Directors of the Association who attended meetings and the Directors were merely allowed to catch up their lost turns. The value of the free turns granted to the Directors of the Corporation is substantial and is not shown on the financial statements of the Corporation.

Not having joined the Corporation, he can not understand why his earnings are paid by the Authority to the Corporation to which he does not belong and which, against his will, forces him to share its expenses. He points out that the Pilotage Authority has always remitted to the Association and not to the Corporation but the financial statement which accompanies his cheque is no longer from the Association, instead it is a balance sheet from the Corporation. He has noticed that administrative expenses have increased considerably since incorporation and that on the balance sheet the expenses are divided among all the pilots, no distinction being made for the six pilots who are not members of the Corporation.

He feels that this is illegal and he reserves his right to claim everything that was retained from his earnings in this way by the Corporation. He has never demanded a complete accounting because in order to enforce such a demand he would have to sue the Corporation and in order to defend itself the Corporation would incur legal fees that he would indirectly have to pay because these fees would then become a Corporation expense (as an example of this, vide p. 480).

He complains of discrimination against the six dissidents in that since the formation of the Corporation none of them has sat on the Board of Examiners because, as a rule, the pilot members of the Board of Examiners are Directors and those who are not members of the Corporation can not now become Directors.

Pilot Maurice Koenig voiced his vigorous disapproval of the present pilotage administration and the Corporation of which he is a member. First he filed a formal brief (Ex. 571) which he supported by his own testimony before the Commission. Secondly, on September 21, 1964, he filed written pleadings (Ex.1352).

The topics of his brief were the following:

- (A) The Department of Transport favoured moving the pilot station to the north shore and there was no advantage in such a transfer (this question will be studied later, vide pp. 403 and ff.).



- (B) He expresses the opinion that the passive attitude of most of the pilots was responsible for the deterioration and gradual loss of prestige of the Quebec Pilotage District.
- (C) He charges the present Corporation seems to have become a form of dictatorship.
- (D) He asks for the abolition of the Pension Fund.
- (E) He complains that statistics may be erroneously interpreted at times.

These charges together with the evidence he brought in support are studied under the topic concerned except item (B). He recognized that in any Pilotage District all the pilots do not hold the same opinion, but believed that normally discussions took place openly while in his opinion there was always great secrecy in the Quebec District. He charged that in Quebec instead of two different groups there are three groups, i.e., those in favour of the present administration, i.e., the Corporation, the second group who are against the Corporation, and the third group who are indifferent, who "sit on the fence and will do anything, whichever way the wind blows". Because of their passive attitude this third group is responsible for this unsatisfactory state of affairs.

Pilot Koenig stated that during his career as a pilot he was a Director of the Association only once, around 1955. He explained that he sent a separate brief directly to the Commission because he felt that on account of the severe criticism that he was voicing against the Corporation, his brief was not likely to be sent to the Commission by the Corporation. He stated that there was no secrecy on his part about it. He agreed that, despite the fact most of the pilots knew that he was filing a brief, no one tried to dissuade him, no threats were made and he was left absolutely free. However, he had to prepare himself for a "rough time" in the witness box and this, in his view, was a form of intimidation. At the last general meeting of the Corporation, the Corporation's counsel informed the pilots that any one could file a brief with the Royal Commission but he warned them that anyone doing so must be extremely careful since the proceedings would be conducted more or less as in a Court of Law, i.e., whoever produced a brief would be subject to examination and cross-examination. Pilot Koenig did not think that this warning was intended for him because, at the time, the Corporation counsel did not know he was preparing a brief but he interpreted this remark as attempted intimidation. Because of the circumstances, he thought most Quebec pilots were afraid to speak out for several reasons and he believed that very little was needed to prevent the filing of separate briefs.

He charged that a series of lies and falsehoods led to the formation of the Federation of Pilots and of the Corporation. It all started with Bill S-3 when the pilots were made to believe that if the bill passed the Department would be empowered to exempt all foreign vessels. The pilots felt their

livelihood was threatened and were easily convinced that a Federation was a necessity. He acknowledged, however, that he attended the meeting when the decision was taken that the Association would become part of the Federation but he did not recall his attitude to the question at that time.

He claimed that another misrepresentation was that the reasons given officially for the transfer of the pilot station were not the real reasons; in fact, in his opinion, it was personal interests that prevailed.

Another falsehood, he felt, was the argument that the pilots would be safer with a corporation than with an association. This, in his views, was wrong because the Association as such could not be prosecuted as a body.

When cross-examined he admitted that the foregoing allegations were the only falsehoods that he could establish in support of this allegation in his brief. He added that there was also the question of the bonus for the special pilots but this came later and had nothing to do with incorporation.

In his brief, he further charged that the Corporation seemed to have become a form of dictatorship, not compatible with a democratic way of life, and in support, he gave the following facts and reasons:

- (A) On one occasion during a general meeting when he asked that a secret vote be taken on a question, his motion was voted down by a show of hands. The Corporation counsel had suggested that his motion for a secret ballot should be decided by a show of hands and this was done.<sup>3</sup> In the opinion of the witness, this immediately meant that a secret ballot would not take place because for various personal reasons a number of pilots were afraid to express their opinion publicly. To illustrate, he recalled one instance in the distant past when, in retaliation against a pilot who was about to retire, the Board of Directors lowered the rate of pension benefits.
- (B) General meetings have taken decisions to allow half a turn per meeting to Directors.
- (C) Since the formation of the Corporation the composition of the Board of Directors has remained almost unchanged, which in his opinion is not democratic. The cause of this state of affairs was said to be the election procedure set out in the By-law. In his brief, he added that the older pilots who have experience are deliberately denied administrative posts by the young pilots who are now the majority.
- (D) Questions and discussions are not welcome. Discussion, he stated, was limited to a small number of pilots and he had a clear impres-

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<sup>3</sup> With reference to the counsel's advice, sec. 58 of the Corporation's By-law No. 1, dealing with voting procedure states: "Should a vote be requested, it shall be taken by a show of hands, or by a standing vote, unless the majority of the members request a secret ballot. In the latter case, the voting should be held in the manner prescribed by the Chairman. A request for balloting may be withdrawn at any time before the voting is held."

sion that those who asked for further information were not welcome. To illustrate, he mentioned the 1963 general meeting when he brought up the question of the abolition of the dormitories at the Quebec pilot station. He asked whether attempts had been made to stop their removal and the only answer he obtained from the President was that some protest had been made after they were closed. He felt that this line of questioning was not welcome and he did not pursue it.

- (E) When the strike was called by the Corporation in 1962, he received threats of violence. About 24 or 48 hours prior to the settlement of the strike he received a call from a pilot who told him that he had overheard that he had offered his services for pilotage. This the witness denied. The man in question made it clear that he would see to it that the witness would be prevented from embarking. The man had identified himself, but pilot Koenig would not disclose his name beyond saying that he was not a Director. He received other telephone calls at the time but these were not accompanied by any threats.
- (F) The Board of Directors has full control over expenses. This is excessive power, bearing in mind that all these expenses are not paid out of the Corporation fund but out of the pilots' own earnings. He claimed that the expenses should be controlled by the members themselves, i.e., by a  $\frac{3}{4}$  vote at general meetings. He felt that the only money that should be deducted from his earnings should be his pension fund contribution and any other expenditures approved as indicated above by the members. He admitted that even in the Association this was a contentious question because in the Association By-laws the Board of Directors was authorized to make expenditures for "sane administration" which was a very ambiguous term. When the Association was in control, this was a great subject of discussion at every general meeting, despite the fact that the items of expenditure were small, while now under the Corporation thousands and thousands of dollars are mentioned freely and no one seems to have any objection. In his brief, and he repeated it in his testimony, he put it this way:

"As matters now stand, a Pilot has to be a member of the Federation of Pilots, whether he likes to or not. He must be a member of the Canadian Merchant Service Guild, whether he likes to or not. He must share in financial ventures of the Corporation, whether he is a member or not... Whenever there is a Convention, all Pilots have to pay for banquet and bebies, whether they attend or not..."

He acknowledged that this situation existed at the time of the Association but he stated that he was always against it. He did not like anyone touching his earnings without his authorization. He



acknowledged having signed an application form to join the Corporation but felt this did not give the Corporation a power of attorney over his earnings.

(xiv) *Petition by 21 pilots*

Twenty-one pilots of the Quebec District, including pilot Roland Barras, pilot Maurice Koenig and pilot Lucien Bédard, addressed a petition dated March 12, 1964 (Ex. 1322) to this Commission. After stating their opinion that the present pool system was anti-democratic, illegal, contrary to law and degrading, they requested that the newly formed Corporation be prevented from usurping the rights of the Association, that the pooling system be abolished, that the expenses of the Association be met by a reasonable fixed contribution, that the pilots be granted the right to provide financial assistance in *bona fide* cases of illness and suspension, that the pension fund be properly supervised by the Pilotage Authority, that the pension be gradually increased and that their system be democratized since it was in danger of deteriorating into an intolerable dictatorship. They suggested that the Pilotage Authority be composed of a three-member local Commission.

During the month of April 1964, five of the signatories filed five identical documents to the effect that they were withdrawing their participation in the petition.

(d) *The Federation of the St. Lawrence River Pilots (vide Part I, pp. 94 and 95)*

Up to 1958, the pilots' organizations in the various Districts of the St. Lawrence River operated quite independently of each other and there was little if any liaison between them. It is true that while settling their problems they had to deal with the same parties in that all these Districts had the same Pilotage Authority and the same shipping interests, i.e., the Shipping Federation and the Dominion Marine Association, but their problems were mostly of a very local character. At that time, the differences between their Districts were so marked that they had little in common. This situation became quite different when, with the opening of the Seaway, the St. Lawrence River and the Lakes became one long waterlane for lake and deepsea ships. The various Pilotage Districts lost their individuality to some extent and pilotage could no longer be considered a service between the boundaries of one District but rather a continuous service throughout the waterway, and the Districts became merely divisions for administrative purposes. More than ever before, policy, planning and organization had to be developed for the whole system.

The Quebec District pilots were tardy in realizing the coming changes and in 1957 they severed their only link with the pilots outside their District, i.e., their individual membership in the Canadian Merchant Service Guild. They had had no problem which necessitated consultation with other groups or concerted action and their only experience with the Guild was the assist-

ance provided to individual members in certain circumstances, e.g., legal assistance. Some members had become dissatisfied with the benefits they derived from this membership and had initiated a movement to withdraw. When a petition to that effect was circulated and signed by the necessary two-thirds majority of the Association members they dropped their membership in the Guild.

During that time the shipping interests and the Department of Transport were busy preparing for the opening of the Seaway and were taking the necessary steps to adjust federal legislation to the new situation. Bill S-3 was one of these measures. It purported to provide more flexibility in the basic organization of pilotage by allowing the Governor in Council power to make whatever changes might become necessary in the District limits of Quebec and Montreal, and in order to give effect to the joint venture between the United States and Canada in the Seaway, it contained provisions which would have done away with the discriminatory system of exemptions provided in the Canada Shipping Act. The Bill contemplated granting exemptions from the compulsory payment of dues on the basis of safety of navigation rather than on nationality throughout the whole St. Lawrence/Great Lakes area.

To the Quebec pilots, as well as to those in the other St. Lawrence Districts, Bill S-3 came as a surprise. There had been very little notice and also they knew very little about it. That part of the Bill affecting the pilots was couched in general terms and the Department of Transport had not thought of informing them of the aims of the Bill nor to what use it was intended to put the new provisions, if it passed. All kinds of rumours circulated among the pilots and they gathered that the Bill was some sort of plot between the shipping interests and the Department of Transport to do away, as far as possible, with the pilotage service. Pilot Bédard stated that the pilots felt panicky when they gathered that the purpose of the Bill was to give the Governor in Council power to grant exemptions at his discretion in all the Districts on the St. Lawrence and that it was intended to exempt American ships as well as other foreign ships.

The introduction of Bill S-3 was the point in time when the attitude of the interests involved changed toward each other; their relations became strained, they became more and more entrenched in their respective positions, suspicion prevailed and from then on the situation developed into a show of strength which culminated in the 1962 strike. Pilot Rousseau stated that through the medium of the Royal Commission hearings the parties involved had an opportunity to express their thoughts and to meet with other groups. In this interchange they found that their fears and differences did not have the significance they first imagined.

The pilots of all the St. Lawrence Districts agreed that there was a common threat and that they should unite for concerted action.

The first result, at the Quebec District level, was to use the Guild to close ranks. Pilot Rousseau, who was not active in the affairs of the pilots at that time, prepared a new petition because he felt that under the threat of Bill S-3 rejoining the Guild was one way of closing up. He and some other members called at the homes of their fellow pilots to convince them to sign the petition. They soon obtained the necessary two-thirds majority and all the members of the Association became Guild members again. Pilot Rousseau added that if it had not been for Bill S-3 he would have done nothing of the sort.

Next came the creation of a joint committee which eventually became the Federation. A campaign was launched against approving the Bill and the legal adviser of the Montreal pilots was instructed to oppose the Bill at the Senate debates in the name of all the pilots. The Guild also sent its own legal counsel for the same purpose. In the meantime, the pilots were requested to contact their Members of Parliament; telegrams were sent and the press was alerted. The opposition was so strong that the proposed Bill was abandoned, although it contained essential legislation.

The pilots remained suspicious for they now realized the changes in the general situation and they also appreciated their common interest and the advantages of grouping together, first, to have stronger representation and second, to share expenses rather than duplicate them when representations had to be made. It was at that time they decided to proceed with the formation of the Federation of the St. Lawrence Pilots.

The first step toward the creation of the Federation was the formation of a joint committee composed of representatives of the three St. Lawrence Districts, i.e., Quebec, Montreal and St. Lawrence-Kingston-Ottawa. As far as the Quebec District was concerned, the decision to participate in the joint committee was taken at the Directors' level and not as a result of a decision of the general meeting of the Association members. On September 2, 1958, the Board of Directors of the Association met principally to study the question of forming a Federation. They had before them a proposal received from the Montreal pilots suggesting the formation of a temporary committee for the main purpose of planning the Federation and, in the meantime, with the aim of defending the common interests of the pilots. According to this proposal, the committee was to be formed of two representatives from each of the pilot Associations concerned. The expenses of the delegates were to be charged to their own Association and the committee was not to make any expenditures without obtaining the consent of all the Associations. The Board of Directors of the Quebec Pilots' Association gave its approval to the proposal, delegated its two representatives and instructed them to obtain an estimate of the costs involved. The delegates were requested to propose that the dues or assessments eventually made by the Federation should be based on the number of active pilots in each Association (Ex. 700).



This provisional joint committee was formed and proceeded to prepare a draft of the nature and powers of the proposed Federation. The Board of Directors of the Quebec Association had this draft distributed to each pilot and asked them to study the document and to forward their comments and recommendations. When these had been studied a second draft was made and again circulated to the pilots to afford them the opportunity to comment further. It is assumed that the same procedure was followed in the other Districts. On April 13, 1959, the Board of Directors of the Association studied the petition signed by 50 pilots of the various Districts regarding the formation of the Federation and arranged to consult the members of their Association. On September 28, 1959, the Board of Directors acknowledged the consent of more than two thirds of the Association members to make the Association a group member of the proposed Federation (Ex. 700). The Quebec District was the last to give its assent as a group. In the meantime, incorporation proceedings were initiated September 8, 1959, and letters patent were issued by the Secretary of State November 5, 1959, under Part II of the Federal Companies Act to create a non-profit organization without pecuniary gain for its members (Ex. 751).

The aims and powers as indicated in the charter are, principally, to unite in one federation the different groups of pilots on the St. Lawrence River and the Great Lakes and to maintain and promote their common professional interests.

The Federation looks after problems of a general nature only and was not intended to replace in any way the local Corporations which keep their own identity. For instance, the Federation is not meant to settle points of contention among group members but merely to promote common interests by concerted action at minimum cost.

For example, when it became concerned with the compulsory payment of dues in the Kingston District, although at that time only that District was in fact involved, the question was of general interest to all the pilots' associations on the St. Lawrence River. They knew that pressure was being exercised by American interests that American pilots be allowed to take assignments the full length of the St. Lawrence River and by asking for the compulsory payment of dues in that area they believed that it was a way of preventing such an eventuality.

It is not one of the Federation's functions to negotiate tariff changes for individual member groups; this is the affair of each local Corporation. When tariff questions were raised in the various briefs presented by the Federation, it was either on account of the principle involved or because these questions of truly local interest were included in a brief that was to be presented on some other matters of prime importance for all Districts. In other words, small items were dealt with at the same time as important issues.

At the winter meetings held at District level, which were attended by representatives of the shipping interests, the Pilotage Authority and the pilots, a Federation representative attended as an observer only and did not take an active part.

Pilot André Bédard, then President of the Federation, added that it is not the policy of the Federation to equalize the income of pilots among the Districts since circumstances vary in each District. The number of ships, the workload, the length of the season and other features have to be taken into consideration. However, it is possible that the level attained by the pilots of one District might be used as an argument by the others to justify a request for a raise but this has nothing to do with the Federation.

The Federation can not interfere in the internal affairs of any member group and, therefore, the Federation will not look into problems that are not common to all pilots unless specifically requested to do so by the member groups concerned. Even then, it could refuse to deal with problems that pertain strictly to one or two groups, e.g., this was the decision taken by the Federation with regard to the St. Lambert lock dispute between the Montreal harbour pilots and the Seaway pilots. The group members retained their full autonomy and attached great importance to this prerogative.

Furthermore, the pilots communicate with the Federation through the Board of Directors of the Corporation. If a pilot writes directly to the Federation, he is reminded of the correct procedure.

From its inception the Federation has represented all the pilots' organizations on the St. Lawrence. "L'Association des Pilotes licenciés pour le Havre de Québec et en aval" was among the founding members and it still represents the Quebec District pilots. When the Corporation was formed it did not replace the Association in this respect and is not a member of the Federation because it does not represent all the pilots in the District (Ex. 1461(f)). When the St. Lawrence-Kingston-Ottawa District was divided its pilots formed two separate corporations, i.e., the St. Lawrence River and Seaway Pilots' Corporation and the Upper St. Lawrence Pilots' Corporation, both of which immediately became group members.<sup>4</sup>

The first general by-law (Ex. 751) was adopted September 8, 1959. It provides for four categories of members: group members, delegate members, active members and honorary members.

The actual members are the pilots' organizations at District level and the Federation is a corporation which provides a focal point for local organizations which are called group members. Individuals, except honorary members, are not admitted as members. Since the group member is only a legal

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<sup>4</sup> On June 8, 1966, the Corporation of Professional Great Lakes Pilots was admitted to the Federation as a group-member; this Corporation groups all the Canadian pilots in District No. 2 with the exception of two (Ex. 1476(a)).

entity it must act through representatives. These are called delegate members in the case of the Pilots' Federation and are nominated by the group members concerned in the proportion of one for every ten members. The effective members of the Federation are these delegate members who sit at general meetings, appoint the Board of Directors, ratify or disapprove Board decisions and take decisions binding on the Federation. They do not act as agents of their own Corporation but as independent members of an independent corporate body, the Federation. The only control that their local Corporation has over the delegate members is in relation to their appointment which is for a one-year term. On the other hand, the group members are strictly autonomous and independent of the Federation. They are not bound by the acts of the delegate members nor by any decision of the Federation. This principle is plainly enunciated in the by-laws, sec. 3(e):

"Member-groups retain their absolute right to act separately from the Federation . . . The Federation has no authority to interfere in the internal administration of any member-group."

Therefore, the Federation is not a partnership of local organizations but a separate independent corporate body and none of its components has power or authority over the other. Furthermore, the regular channel of communication between the Federation and the local Corporation is not through the delegate members but through their respective Board of Directors. The delegate members, once appointed, have no direct responsibility to their local organization.

All pilots who are members of a local organization that is a group member of the Federation are what is called active members of the Federation. Their rôle is to choose the delegate members through the system established in their own group. They may also attend the general convention that the Federation usually holds once a year but this general meeting of the active members plays a consultative rôle only.

The honorary members are persons appointed by the Board of Directors of the Federation. The criterion for such an appointment is outstanding service rendered to the Federation or to the pilots in general. These members may attend general meetings and conventions and even participate in the deliberations but they can not vote.

The Board of Directors is composed of a President and two Directors for each member group, both chosen or elected by the delegate members of that group. The Board of Directors, once elected, elects two of its members as President and Vice-president. They may also choose a Secretary, but it is not mandatory that he be chosen from the Directors, nor even from the members of the Federation (by-law, sec. 14). Since the President must be as independent as possible of any local group and in view of the fact that he has no right to vote except in a tie, a 1960 by-law amendment decided that the President, once elected, ceases to be one of the two Directors representing his



member group. To guarantee the member group affected a representation of two Directors, a new Director is appointed by the Board of Directors of the Federation acting on the recommendation of the member group concerned.

In 1965, since there were five member groups, the Board consisted of the President and ten Directors.

When pilot André Bédard became President of the Federation he resigned as Director of the Quebec Pilots' Corporation. There was nothing in the Quebec Corporation by-law to that effect but he felt it advisable to do so.

The Federation's sources of income are dues, both annual and special, assessed by the general meeting of the delegate members to cover expenses. The amount is arrived at by adopting a budget and pro-rating the total among the member groups in proportion to the number of active members of the Federation in each member group.

Since the first general by-law was adopted there have been minor amendments which were first passed by the Board of Administrators, then approved at the next general meeting of the delegate members and finally forwarded to the Secretary of State for approval before becoming effective. In urgent cases, however, approval by the general meeting could be dispensed with and the amendment would become effective when the Secretary of State gave his approval but would lapse if not confirmed at the next general meeting. At the time of the Commission's hearings the Board of Directors had not yet used this special power.

The meetings attended by all the delegate members are the general meetings of the Federation; those attended by the active members are called conventions. The annual general meeting is normally the only general meeting held each year but two special general meetings were held October 10, 1960, and June 4, 1963, both at Three Rivers. The first meeting was called to study the grievances mentioned in the Federation's brief on winter pilotage, to receive reports on negotiations and to consider what decisions should be taken (Ex. 765). The second meeting was called to study the recommendations to be made to the Royal Commission on Pilotage (Ex. 765). There was no special meeting of the Federation in April 1962 to deal with the strike, but the Board of Directors met. The general meetings held at that time were local Corporation meetings.

The main reason why all authority is vested in the general meetings of the member delegates and not in the meetings of the active members is found in the nature of pilotage which makes it impossible for all the members to attend a meeting at the same time during the navigation season without causing a stoppage of work. In addition, there are many problems that need an immediate solution. However, it was felt desirable to bring all the pilots together periodically so they could exchange ideas and experiences and keep posted on the situation in general and the problems of their colleagues. When

provision was made in the By-laws, for these annual conventions, the pilots stressed that the idea was not entertained that they could be used to create a stoppage of work.

At the annual convention the Federation President presents his report of activities during the year and the financial statement is studied as are various questions placed on the agenda for discussion.

Attendance records are available for the years 1961 and 1962 only. In view of the fact that the active members play only a consultative role at these meetings, the Federation did not feel it necessary to keep these records (Ex. 764). In 1961, in order to promote attendance, it was decided to assess all active members a \$25 registration fee whether they attended or not. Attendance records for the years 1961 and 1962, out of a total active membership estimated at 280, are as follows:

Area	1961	1962
Quebec—Les Escoumins.....	53	22
Quebec—Trois-Rivières.....	37	24
Trois-Rivières—Montreal.....	28	44
Montreal Harbour.....	13	15
Montreal—Kingston.....	39	—*
Montreal—Cornwall.....	—	22
Cornwall—Kingston.....	—	21
Total.....	170	148

\*District divided in 1962.

At the end of 1966, the total membership was 307: Quebec—85; Montreal (river)—136; Montreal (harbour)—20; Cornwall—37; Kingston—29.

#### (i) *Finances*

Each year the Board of Directors prepares a budget and gives a copy to each delegate member for consideration at the general meeting. The annual fee that each member group has to pay for its members is determined by the amount of the approved budget.

The basic annual fee is \$100 per pilot. In 1961, the delegate members approved the above-mentioned additional assessment of \$25 to induce the members to attend the annual convention. It was, in fact, a compulsory registration fee for all pilots, whether they attended the convention or not, to cover normal charges such as registration fees, dinners and reception. Pilot Maurice Koenig protested against the compulsory assessment of \$25 for the annual convention although he acknowledged that it was made because too few members attended (p. 295). He himself did not attend the 1963 convention which was held at Ste. Marguerite de l'Esterel. In 1963, when the Directors proposed an additional \$60 to cover extraordinary expenses, the general meeting raised the special assessment to \$75 making a total assessment for that year of \$200 instead of \$185 as originally proposed.

On July 7, 1960, the President of the Federation wrote to the member groups seeking a special contribution for the Federation. He stated that the Federation budget indicated a deficit of \$11,678 and pointed out that special extra, non-recurring expenses had been incurred—creating the Federation, drafting and obtaining the charter, purchasing office equipment, etc.—which amounted to \$5,000 and that the first convention showed a deficit of \$3,000. To cover all these expenditures he asked for an additional contribution of \$45 per pilot. A copy of this letter was sent to all the Quebec District pilots by their Corporation in a bulletin dated July 12, 1960 (Ex. 688).

Very little expense was incurred by the Federation in connection with the 1962 strike. These expenses were borne by the Corporations themselves and, except for a small reimbursement to the Quebec Corporation, the Federation paid only the expenses of its officers, a few publicity costs and the remuneration of its legal adviser.

In case of urgency when the Federation is out of funds there may be a special assessment voted by the Board of Directors. This happened once and the assessment was ratified at the next general meeting.

#### (ii) *Remuneration of Federation Directors*

Remuneration and other allowances have to be decided by resolution of the Board of Directors and approved by the general meeting. Up to now, the Directors have not been paid by the Federation and any remuneration they receive is from the local organization which they represent. However, they are reimbursed by the Federation for their actual transportation expenses and are paid \$20 *per diem* allowance when attending meetings of the Federation outside their normal residence.

There is a different procedure, however, for the President and the Vice-president (and the Secretary if he is a member) in that they receive a remuneration from the Federation. The reason is that these officers must be unbiassed, and the President especially, who must not represent any member group in particular. Furthermore, if the remuneration of the President is a charge against his own Corporation, it would have to indemnify three persons in view of the fact that when he is elected President he is no longer one of the two representatives of that Corporation. The President's remuneration is thus *ipso facto* pro-rated among all the active members.

The remuneration of these officers takes two forms: straight salary and an indemnity for the value of the pilotage work lost during the time they devote to the affairs of the Federation. Only the President receives an emolument—it is fixed at \$100 a year. Indemnification for loss of time is paid indirectly at the Corporation level by crediting the officer concerned with the turns he would have performed if he had been available for duty, and in this way, his regular remuneration is not affected. The Federation is billed by



the Corporation concerned for the value of these turns and the payment is credited by the Corporation concerned to the common fund as pilotage revenue (p. 483).

The turns are granted by resolution of the Board of Directors and approved by the general meeting along with the financial statement.

From 1960 to 1965 inclusive, the amounts paid by the Federation to the local Corporations on behalf of the President, Vice-president and Secretary were:

Year	President	Vice-president and Secretary
1960.....	\$ 2,160.00	\$ 145.00
1961.....	673.14	260.00
1962.....	2,405.00	546.91
1963.....	10,887.88	288.00
1964.....	7,365.39	109.31
1965.....	4,553.46	145.30

SOURCE: EX. 759 (Federation financial statements).

The revenues of the Federation are derived mainly from assessments. In addition, there are sundry amounts, e.g., a gift of \$300 in 1960, interest on bank deposits, and a little surplus in the operation of the annual convention from 1961 to 1965 inclusive. The total income for each year was as follows:

Year	Assessment	Others	Total
1960.....	\$ 29,372.50	\$ 329.12	\$ 29,701.62
1961.....	26,600.00	31.60	26,631.60
1962.....	27,100.00	1,320.64	28,420.64
1963.....	67,250.00	824.39	68,074.39
1964.....	40,991.65	527.65	41,519.30
1965.....	32,100.00	820.42	32,920.42

The assessment procedure makes it impossible to make revenues meet expenditures exactly and, therefore, at the end of the fiscal year there is bound to be a surplus or a deficit. For instance, on December 31, 1961, there was a deficit of \$4,947.10 while on December 31, 1964, there was a net surplus of \$8,300.47.

It has also been customary to create a reserve for large planned expenditures, e.g., at the end of 1962 there was a reserve of \$22,909.77 for expenses anticipated in connection with this Commission. In addition, money is set

aside from year to year to organize the next annual convention. This practice started in 1963 when the reserve was \$6,725; at the end of 1964, it was \$6,925.

The financial year corresponds to the calendar year. The financial statement is prepared in much detail and is audited by chartered accountants (Ex.759) who verify receipts and disbursements in detail by checking supporting documents and ensuring that there is appropriate authority for all expenditures. The auditors report that the books are well kept, that the accounting system conforms to the needs of the Federation and that they have found no misuse of funds. The supporting documents for the turns granted the President, Vice-president and Secretary are the invoices from the Corporations concerned and the cheques issued by the Federation.

*(e) Guild Membership*

The Canadian Merchant Service Guild affiliates the various officers of the Canadian Merchant Service on an individual basis, i.e., Masters, mates and engineers, and pilots as well. In some Districts, only a certain number of pilots, if any, are members of the Guild; in other Districts, such as Quebec, membership is compulsory as a result of a decision taken by the pilots' own organization. As seen above, the by-laws of the Quebec Association were amended in 1958 to cancel this compulsory membership and it was left to the individual to decide whether to be a member or not. This was changed again in 1959 when the pilots felt the need to band together and, ever since, the Guild dues have been paid out of the common fund for all the Quebec pilots. It is not, however, a truly compulsory membership in that a pilot could always resign but his dues would continue to be paid. This, however, has not occurred so far.

In addition to the personal benefits that the pilots derive from this membership, the Guild has occasionally acted in their collective interest, e.g., when the Guild made representations against Bill S-3. At the annual meeting held in Montreal March 22, 1961, the Guild opposed the brief that had been presented to the Department of Transport by the Dominion Marine Association and also opposed the plan to have the pilots share in the District administrative expenses when it was proposed to assess the Quebec pilots 4½% and the Saint John, N.B., pilots 25% of the gross revenue. In 1962, during the pilots' strike, the Guild members in Saint John, N.B., and British Columbia informed the Minister of Transport that they were ready to go on strike in support of the St. Lawrence District pilots.

**(3) LEAVE OF ABSENCE**

In a service where free enterprise prevails there is no question of leave of absence. Each pilot's remuneration consists of the dues his services have earned, competition is the rule, the first pilot to offer his services at the boarding station obtains employment and absence results in no earnings. In

such a system, the Pilotage Authority is only remotely interested in a pilot's availability for duty, has no reason to interfere as long as a sufficient number of pilots is on hand to meet the actual and expected demand and is not concerned with sharing either the workload or pilotage revenues. Because this is the situation contemplated by Part VI of the Canada Shipping Act, there is no reference to leave of absence in the statutory provisions dealing with pilotage nor is absence without leave mentioned as an offence. Normally, the Pilotage Authority would intervene only if there were a shortage of pilots. Under subsec. 329(f)(v) C.S.A. a Pilotage Authority may make it an offence (a statutory offence prior to the 1936 amendment to the Act) for a pilot to refuse to take an assignment when the Authority has intervened in such circumstances.

By contrast, the situation is different where the Pilotage Authority has assumed the direction of the service, thereby abolishing free enterprise and making the pilots its quasi employees. In so doing, the Pilotage Authority has incurred the implied obligation of equal treatment for all pilots, i.e., equitable sharing of workload and earnings. This is normally achieved through despatching according to a tour de rôle and, to correct discrepancies in earnings due to the rate structure, by making each pilot's remuneration an equal share of the common earnings based on availability for duty. Hence, the necessity for regulating entitlement to leave of absence (whether regular leave or sick leave) and providing in which cases it is with pay, i.e., with a right to participate in the shares of the pool. In such a scheme, absence without leave is an offence since it deprives the Authority of the opportunity to decide whether a pilot should have been available; it also automatically affects a pilot's remuneration by making him lose sharing rights in the pool proportionate to his absence.

On account of the illogical and unrealistic attitude taken by the Quebec Pilotage Authority following the 1913 Lindsay Report, the question of availability for duty of the Quebec pilots has continued to be a muddled, complex question causing confusion and misunderstanding between pilots, Pilotage Authorities and ship owners. It has also created a situation that has been much abused by some pilots. The pilots, as a group, have recognized the seriousness of the problem and are now trying to solve it: since 1967, they have indirectly provided for regular leave of absence through the despatching rules but this is only a partial solution. The only adequate solution is to follow the example of most major Districts by arranging for the Authority to operate both despatching and pooling, the latter being based on availability for duty and not work done.

The question of leave of absence is dealt with in the District By-law in sec. 22. No regular leave of absence is provided for. A pilot is automatically on leave when he is prevented from acting as a pilot on account of illness or injury; in this case, his only obligation is to inform the Supervisor of the



cause of his absence and, if the absence exceeds six consecutive days and for lesser absences if so required by the Supervisor, he must furnish the Supervisor with a medical certificate, and if so required by the Supervisor, he must submit to a medical examination by a medical officer appointed by the Authority. A pilot may absent himself from pilotage duties at his discretion provided he has obtained leave to that effect from the Supervisor, the maximum duration being the current season of navigation, a term which is not defined.

These are the sole regulations dealing with leave of absence. No mention is made whether leave is with pay or without pay, since availability for duty is not a factor that enters into the computation of remuneration. In this respect the pilots are considered in the regulations as if they were still private entrepreneurs and the By-law provides that they be paid the dues their services have earned, less compulsory deductions for the Pilot Fund. The absence of pilots, whether on leave or without leave, creates a serious problem, however, on account of the influence on despatching of the application of the equalization of trips rule plus the faulty interpretation given to that term with regard to its application in cases of absence as a result of the lack of definition in the By-law (p. 431).

The factual situation as at the time of the Commission's hearings was as follows. The only concern of the District Supervisor with a pilot's absence was whether it would interfere with the efficiency of the service and the despatching procedure. As long as there were enough pilots to meet the actual and expected demand for pilotage, the Supervisor would approve automatically any request for leave. Because of the method adopted to apply the equalization principle, an absence, even of long duration, does not necessarily mean lower remuneration since the pilot will be able to catch up with his lost turns by taking precedence on the despatching roster over those who were available and have done a larger number of turns. The equalization rule, according to the despatching rules, applies whatever the cause of the absence. Whether the absence was legitimate, authorized or not, makes no difference and, if the pilot has time to catch up with his lost turns before the end of the year, he will receive the same remuneration as those who were always available for duty. Through the despatching rules the Pilotage Authority prevents those pilots who are always available from taking an assignment (hence, from being employed) if a pilot with a lesser number of turns caused by absence is available at the time.

Therefore, it was quite in order for the Supervisor to grant almost standing leave of absence to pilot Blank, provided he was on call when pilots were in great demand. Pilot Blank's health was not good, although, provided his workload was reduced, he was still able to carry on as a pilot. In view of the actuarial deficit in the Pension Fund, the senior pilots had been requested to delay their retirement as long as possible. To this pilot Blank agreed,

provided he was called upon to work only part-time. In his case, this meant a lower income since he did not avail himself of the equalization rule (Exs. 655 and 705). However, other pilots with extensive periods of absence were able to make up their lost turns and receive the maximum share of the pool (pp. 480-481).

On account of one provision in the despatching rules, Directors do not ask for leave of absence to attend their meetings since these functions are considered as being inherent in the organization of pilotage. In order not to impair the despatching routine, the pilots concerned are required to inform the despatcher's office of the date of the meeting so that their name can be taken off the assignment list for that day. A similar procedure is followed when pilots have to attend other official duties, such as occurred when a number of pilots attended the hearings of this Commission in 1963 and 1964.

The system worked well from the despatching point of view, despite its abuse by some pilots, but it created problems in other fields, such as equitable sharing of the workload and the pilots' earnings, and created confusion in statistics, e.g., the effective pilot figure, in negotiations and in relation to the pilots' requests for increases in their number (pp. 227 and ff.).

The attitude taken by the Pilotage Authority in this respect is further illustrated by the following cases (Ex. 644):

- (A) Pilot . . . is shown as having been absent for the years 1960 to 1962 inclusive, for 275, 273 and 275 days respectively out of 275 days of the normal navigation season. In 1961, he did one trip which accounted for the difference of 2 days for that year; otherwise, according to sec. 336 C.S.A. he would have forfeited his licence automatically. Pilot . . . had been seriously injured in a motor vehicle accident in January, 1960. On July 10, 1963, it was reported that his condition had improved and that according to reports received from his physician and from the Medical Officer of the Department of National Health and Welfare he was supposed to be able to resume pilotage in September, 1963 (Ex. 705). Instead, on August 13, 1963, his licence was withdrawn because two full years had elapsed since his last assignment. Pilot . . . received the maximum sick benefit from the pilots' own common fund (Corporation By-law No. 2, subsec. 14(e) and subsec. 12(e), Ex. 672), i.e., full sick benefits for the two years 1960 and 1961 but neither sick benefits nor remuneration of any sort for 1962 and 1963, except a pension from the pilots' Pension Fund to which he was entitled upon his retirement after August 23, 1963 (vide Corporation Financial Reports for the years 1960 to 1964 inclusive (Ex. 597)).
- (B) In contrast there was the case of pilot . . . who is shown as having been absent between 1960 to 1963 inclusive, 43, 100, 116 and 181

days respectively. From August 31, 1963, when he refused to take an assignment at Les Escoumins and later refused to appear before the Supervisor as ordered, he was shown as merely absent until June 9, 1964, when he was discharged on medical grounds. It would appear that the reasons given for this pilot's previous absences were not genuine. He did not receive sick benefits for his frequent periods of absence between 1960 and August 31, 1963, because he never applied for them until his absence on the latter date, knowing very well that the Pilots' Corporation was quite strict in this regard. The Authority made no inquiry into the actions of this pilot and no charge was laid for his refusal to embark when he was regularly despatched nor for disobeying the Supervisor's orders. The Quebec Acting Supervisor expressed the opinion that no action on the part of the Authority was indicated and that it was up to the pilot to make the next move. He observed that while the pilot was absent the Authority was certain not to run into any trouble.

The pilots as a group have realized the necessity for regulating absences. In 1961, the Pilots' Corporation required one of its committees to study the question. Since 1967, the despatching rules have provided for six periods of six-day compulsory leave to be taken by all pilots according to a pre-established list from April to November inclusive. In addition, there is seven weeks' annual leave which must be taken by all pilots during the winter season (p. 432). This, however, solves only part of the problem in that pilots may still indiscriminately obtain other leave of absence in addition to these compulsory leave periods and the faulty practice for equalization of trips continues to apply, even if leave of absence is taken without authorization. Furthermore, such a system of automatic compulsory leave taken at regular intervals is inconsistent with the nature of pilotage, which demands that leave should be taken only during periods of low demand (pp. 431-432).

#### COMMENTS

The attitude of the Pilotage Authority in Ottawa and its local representative, the District Supervisor, toward pilots' absences shows the extent of its failure to comprehend the special system it has imposed on the Quebec pilots by denying them the advantages of a pool operated by the Authority.

When the Quebec pilots asked for an increase in their number for 1963 (pp. 227-231), the Director of Marine Regulations, in a telegram dated April 17, 1963, replied that their request seemed to be unjustified in view of the pilots' record of absenteeism. Later, after these absences had been explained, the Minister himself, in a letter dated June 10, 1963, refused the request stating that the absences were unjustified.



This incident which shows a serious lack of comprehension by the Pilotage Authority of its rôle, was highly unjust to the pilots. The responsibility for curbing unwarranted absenteeism lay with the Pilotage Authority who alone had effective power to act. It is the local representative of the Pilotage Authority who grants leave of absence and, if he considers a request unjustified or untimely, it is his duty to refuse. If an absence is caused by illness, again only the Pilotage Authority has the power to ascertain whether the case is genuine by making any necessary investigation and by seeking more detailed information than the mere production of a vague certificate signed by the pilot's own physician. In the case of absence without leave, it is the duty and the responsibility of the Pilotage Authority to initiate appropriate disciplinary measures promptly.

If at that time absenteeism was believed by the Authority to be abusive, it was most unjust to cast the blame on the pilots as a group after the situation had been allowed to develop as a result of the Pilotage Authority's own laxity and failure to discharge its responsibilities.

Refusal or unjustified failure by a pilot to take an assignment, absence without leave and malingering, are all breaches of the By-law which the Pilotage Authority is not permitted to overlook. It has no discretion whether or not to prosecute breaches of its By-law whenever there is a *prima facie* case. It is bound by its By-law and has the responsibility of ensuring that it is implemented and obeyed (Part I, p. 351). To prosecute in one case and not in another can only lead to arbitrary practice and the undermining of authority.

For instance, the action taken in the case studied on pp. 309-310 is an example of such an indefensible attitude. Between 1960 and 1964, disciplinary action was taken against him only once when a fine was imposed, despite his numerous absences without leave, his repeated failures to take assignments and his refusal to appear before the Supervisor when so ordered. By not investigating each incident immediately and not instituting the proper disciplinary proceedings the Supervisor showed a disappointing lack of responsibility, and his inertia and passive attitude not only failed to maintain discipline but also invited further difficulties.

#### (4) CONTENTION ABOUT STATISTICS

The pilots and the Pilotage Authority disagree about the nature of the statistics maintained by the Pilotage Authority and the use made of them, particularly with respect to absences.

As seen above, a pilot has to be available for duty in the Pilotage District of Quebec each of the 275 days between April 1 and December 31 of each year. Every day he is not available is counted as one absence, irrespective of the reason and with no allowance for holidays of any kind.

A record of each pilot's absences is kept in his personal file. No reason for an absence is indicated except that when medical certificates are furnished they are included in the file. These records cover all absences whatever their cause, e.g., they include prolonged absence due to illness, suspension or leave taken by the Directors. Ex. 644 lists the absences of each pilot on strength for the years 1960-1964, inclusive.

It shows *inter alia* that in 1960 and 1961 three pilots were always available and six in 1964. Most pilots are absent for less than 20 days during the navigation season (with the exception of 1962 on account of the strike) and only on rare exceptions exceed 40 days. On the other hand, these few cases are generally substantial because they are caused by severe illness or suspension. The average number of days absence per year-pilot (re meaning of the term, vide p. 117) during the years 1960 to 1964 was 29.1, 28.4, 41.7, 34.8, and 25.8 days respectively.

These statistics are based on what is normally called the navigation season, i.e., the nine-month period extending from April 1 to December 31, a period which is truly representative of the workload of the Quebec pilots and which has always been used for statistical purposes. In the winter months there is comparatively little traffic and there are always more than enough pilots available to take care of it. In 1961, for instance, all the pilots were available for assignment every day during those nine months, including Saturdays, Sundays and legal holidays, except for an average of 2.3 days per month, or in other words, in a 30-day month the average availability for work was 27.7 days. In 1963, the average absence per month was 3.9 days and in 1964, 2.9 days.

Effective pilot statistics compiled on this basis can not be compared with those in other Districts, e.g., British Columbia where a larger number of days absent per pilot are officially and unofficially counted as days of availability for this purpose (Part I, p. 147 and Part II, pp. 77-79).

In determining when a pilot is to be shown as absent in the Quebec Pilotage District, one point of contention concerns those who arrive from duty after midnight and who, in order to have their rest, request not to be placed on the despatching list for that day. Each day's assignment list is drawn up at 9.00 a.m. and, in accordance with the local routine, all pilots who reported back for duty before that time must be listed as either available or absent. In practice, this made little difference in assignments because the minimum rest period is ten hours, although normally more than a day elapses, and when the new list is drawn the following day the pilots concerned will be listed according to the principle of equalization, i.e., in the same order as on the previous day, whether or not they were shown as being absent. There is a slight possibility that pilots might be reassigned the same day, if there was a great demand for pilots and a number were unavailable for duty for any reason, but this may happen only to a pilot who is behind in

his turns and who, as a result of the rule of equalization of turns (p. 431) when the list is made up, is despatched by priority. In that case, he might be recalled the same day. The pilots feel, therefore, that it is not right for statistical purposes to list as absent a pilot who would not have been assigned a ship in any case, merely because he asked to have his name left off the roster.

Another cause of contention is the erroneous interpretation of these statistics. The pilots contend that they are meaningless in view of the principle of equalization of trips, e.g., some pilots with absences totalling between 50 and 85 days a year have been able to perform the same number of trips as those who were not absent one single day. In 1960, pilot Charles-Edouard Langlois was absent 85 days and yet did 106½ turns (104 trips) when 105½ turns yielded maximum remuneration, and in 1961, pilot M. Malouin with 71 days' absence did 104½ turns (101 trips) when 103½ turns were sufficient for maximum pay, etc. (Ex. 1461(o)).

Furthermore, they point out that these statistical averages are meaningless when dealing with absences because the important point is whether the number of pilots who are available is adequate to meet the demand. They claim that average statistics mean nothing: for instance, if the average number of absences per pilot is nine days for the year, it is of very little consequence, but if all the pilots were absent on the same nine days it would mean a stoppage of work.

In addition, they charge that these absence statistics, as computed for the Quebec District, can not be used as a basis for comparison with those of other Districts because they are not computed according to the same principle and the procedure for providing service and the rules for determining the pilots' remuneration are not the same.

The Quebec pilots have consistently made a special point of refusing to accept the statistical figure called *effective pilot*.

They pointed out that working conditions in the Quebec District differ from those in other Districts, e.g., in Quebec the season is calculated on a 9-month basis and no credit is given for services performed during the winter months, while in British Columbia the season is calculated on a 12-month basis, and when the effective pilot statistics are being computed the British Columbia pilots are considered on duty while they are on annual or unofficial leave but in Quebec every day off, whatever the reason, is considered an absence for the purpose of computing the effective pilot statistics.

Furthermore, the effective pilot figures for the Quebec District can not be compared from year to year because the method of calculation has changed from time to time. Prior to 1961, the Quebec District Supervisor had his own system of calculating the statistics, i.e., on the number of assignments performed during a month and not on availability for duty. Absences did not count. The computation was made by considering as one effective pilot every



pilot who did the same number of turns that a pilot who was always available was called upon to do; under the rule of equalization of turns that method made it possible for a pilot to be absent for a few days, still regain his lost turns and be shown at the end of the month as a fully effective pilot. If, however, he did not catch up until the following month, he was shown as a fraction of an effective pilot for the first month and one effective pilot the second month, despite the fact that in the second month he had done more turns than a pilot who had not been absent. No credit was given to offset the debit entry of the previous month, although in the course of the two months concerned he had performed the same number of turns as a pilot who had not been absent.

On August 23, 1961, the Department instructed the District Supervisor to modify the basis of calculation and to compute the effective pilot figure on the same basis as elsewhere, i.e., on availability for work on a day to day basis. The D.O.T. definition was:

"The number of effective pilots is the number of pilots either available daily for assignment to duty or on regular annual leave but does not include any pilot who is not available for assignment to duty because of sickness, special leave or any other reasons."

Under this system the amount of work done by a pilot in a given period of time does not enter into consideration. For instance, in 1960, pilot Charles-Edouard Langlois (p. 313) would have been shown as 0.69 effective pilot, although his share of the workload was the same as any pilot who was always available. Such a situation, which could not occur in the Pilotage District of British Columbia, is rendered possible in the District of Quebec by the application of the equalization of turns rule.

Because of this modification in the computation procedure the effective pilot figure for 1961 is a composite figure, having been computed by the old system up to July 31 and by the new system for the remainder of the year.

The pilots, therefore, strongly protested against using these effective pilot statistics.

For the Commission's comments on statistics, reference is made to Part I, pp. 147-149.

#### (5) PILOTS' STATUS AND WORKING CONDITIONS

The Quebec pilots' status is in practice that of quasi-employees of their Pilotage Authority in that they may not act as free entrepreneurs and can neither compete against their fellow pilots for clients nor receive and retain the dues their services have earned.

It is true that the pilots' pooling arrangements are the result of a contractual agreement between them and could be dissolved if they so decide, but this is not the criterion. According to the By-law governing the provision of service, a pilot is not at liberty to compete for work nor to decide whether

he should or should not accept work. He must be available for duty at all times, unless he is ill or absent on authorized leave. He can not perform any pilotage function unless it is assigned him by the Pilotage Authority through its local representative, and he may not refuse such an assignment when validly made. His failure to comply with these requirements is a breach of the District By-law which exposes him to prosecution.

The pilots abandoned their free entrepreneur status when they sought incorporation and finally obtained it in 1860, thus becoming quasi-employees of their Corporation until 1915. In 1915, an amendment to the 1860 Act of incorporation vested the powers of the Pilots' Corporation in the Minister (as such) thus making the pilots his quasi-employees.

When the 1934 C.S.A. came into force the pilots' status was again changed because they came under the general provisions of Part VI of the Act which regards pilots as free entrepreneurs. However, as a result of ultra vires By-laws of the Pilotage Authority, the pilots of the Quebec District (as in most other Districts) became, in effect, quasi-employees of the Pilotage Authority which has since managed and directed the service and has effectively prevented the pilots from exercising their profession freely. For further comments vide Part I, pp. 76-80.

When a pilot boards a ship his services are leased by his Pilotage Authority to the Master and his main function is to take charge of her navigation under the authority of the Master (vide Part I, pp. 22 and ff.).

Pilot Dussault stated in his evidence that when a pilot embarks the Master advises him of his destination, the ship's draught, her particulars and any peculiarities. The pilot, in turn, informs the Master of any special matter of current importance, and may hand him written regulations on such matters as pollution or the use of accommodation ladders by ships of light draught or in ballast.

Ships in transit with no communicable disease are granted *pratique* to enable them to proceed to their terminal point for medical inspection thus avoiding delay at Quebec, the main quarantine entry port on the St. Lawrence River.

Pilot Dussault further added that if a vessel is of deep draught, the pilot ascertains from the Master her exact draught in fresh water. Then the pilot, in consultation with the Master, must plan beforehand to make effective use of the tide by adjusting the vessel's speed—or even anchoring—to meet favourable tidal conditions when traversing the dredged sections of the channel.

It is the pilot's duty to ensure that his orders are understood and promptly obeyed and, while the officer of the watch generally checks that such orders are received and acted upon, this does not relieve the pilot of his responsibility.

Since all Quebec pilots are fluent both in French and English, the language barrier seldom presents any difficulty. However, this may occur on rare occasions in vessels manned by a crew of various nationalities. Generally the Master or his officers are able to transmit the pilot's order to the wheelsman or other members of the crew. In such a case a pilot may also use a black-board in the wheel-house in plain view of the wheelsman to indicate the course by numerals. Some vessels, particularly of German and Scandinavian registry, have a special course indicator on which the pilot sets the course so that the wheelsman has it before him at all times.

Most ships are berthed by the pilots but occasionally a Master, usually of a Great Lakes vessel, will perform this manoeuvre himself.

Pilot Dussault emphasized that, when it is said that a pilot takes charge of a vessel, such a statement means only as far as her navigation is concerned and until such time as the vessel is safely secured at her port of destination, unless he has been relieved by another pilot or discharged by the Master. Once a pilot boards a vessel, he never knows exactly how long his turn of duty may last. Pilot Dussault recalled an assignment in 1962 when, due to adverse weather conditions, he was obliged to stay on board a Cairn Line vessel for nearly two days. The ship was brought to anchor off Quebec, but due to the very strong wind the anchor would not hold. Various anchorages in the harbour were tried but with the same result, and they were obliged to proceed down river past Goose Cape where there was more sea-room. There they hove to for the night and returned the following morning. It was his duty to remain with the vessel until he had brought her safely to port.

Whenever there is a strong easterly wind during the navigation season, ships may drag anchor in the Quebec harbour anchorage area. Some companies, especially oil companies, have adopted the rule to engage a pilot for their vessels when anchored in Quebec harbour to stand a security watch at all times. The remuneration for such a service is a detention charge.

In April 1962, the Greek S.S. *Consuelo*, anchored off Sillery Point, dragged her anchor during the night from the Point to the ferry wharf, i.e., more than three miles downstream, where it became entangled in the telephone cables. No pilot was aboard and, in any event, no pilot was available because of the pilots' strike.

## (6) PILOTS' LOG-BOOK

Most pilots keep personal records of their trips, noting the ship's name and particulars, and other information such as time of arrival, departure and passing turning buoys, particular land marks and the state of the weather and tide. Some years ago a Quebec pilot, Paul E. Cloutier, published a pocket sized practical pilot's log-book with columned headings. It also contains pertinent information, such as standard courses, distances between points, names,



addresses and telephone numbers of shipping companies and others (Ex. 668). It is currently used by a number of pilots.

Pilot Dussault stated in his evidence that he does not use a book of this type because he considers it unnecessary to record everything. He feels that keeping such a log-book is a personal matter and that it has no value for statistical purposes since the data received from the Master can not always be verified. However, he does keep a record of unusual events that may be helpful at other times, e.g., a record of a ship's behaviour when under way is always useful for those occasions when he pilots the same ship again, bearing in mind that a ship will not handle exactly the same every time on account of varying factors such as changes of trim, draught and weather.

In pilot Dussault's opinion, there are many small advantages in keeping a log, but none that would make it compulsory. When navigating under adverse and dangerous conditions it is more important for the pilot to concentrate on the navigation of the ship than to make entries in his log-book, e.g., to make an entry at night would necessitate using a light, thus temporarily impairing his vision. However, he agreed that in case of a collision or accident, a well kept log-book would provide valuable information, but added that a pilot's first duty is the safety of the ship, and in a difficult situation he has "no time to stop and write notes in his book".

In Mr. Justice Smith's report on the formal inquiry into the collision between S.S. *Leecliffe Hall* and M.V. *Apollonia* one of the recommendations was that pilots be required to keep such a log-book which would be signed by the pilot when he left the ship and filed forthwith at the pilotage office. This recommendation was not concurred in by the Pilotage Authority (vide p. 373).

#### COMMENTS

It is not essential for pilots to keep an official log-book and to make it compulsory would be an unnecessary imposition. This has never been a requirement in any Pilotage District in Canada and neither the safety of navigation nor the efficiency of the service has been adversely affected.

One of the main purposes log-books would serve in the Quebec and Montreal Districts is already being fulfilled by the recently instituted traffic information service, officially called *Marine Traffic Control* (p. 180), which requires ships to make VHF reports as they pass designated check points *en route*. These records will provide, if necessary, such pertinent data as weather, times of passing certain points and average speed.

#### (7) CO-OPERATION WITH VARIOUS AUTHORITIES

Part of the duties of pilots and a condition of their holding a licence is that they co-operate with the authorities concerned in the general safety of navigation and the proper use of waterways. Sec. 17 of the Quebec By-law

makes it obligatory for pilots to report any violation of the law they may observe on the part of other vessels, any defect in the operation or position of an aid to navigation, or any alterations to banks or channels. A pilot is also obliged to warn another vessel standing into danger, i.e., approaching a shoal or navigating in a manner likely to cause an accident.

The help of the pilots is also sought to prevent water pollution by contributing to general surveillance. The Department's officials acknowledged the co-operation they had received from the pilots in this regard.

Pilots, by the very nature of their profession and their constant experience, become established as experts in the navigation of the waters in their District. They are, therefore, the logical advisers to those responsible for the safety of navigation, i.e., the Pilotage Authority, Department of Transport and Port Authorities. They are also in the best position to appreciate faults or difficulties in the organization of their service, as well as other nautical services, such as those providing aids to navigation or dealing with the physical features of their District. The pilots' suggestions and recommendations to the Pilotage Authority and others have resulted in many improvements, e.g., their extensive studies on the recruitment of pilots led to the present rules governing their apprenticeship system.

In their capacity as those who have "the conduct" of vessels, subsec. 17(2) of the District By-law obliges them to comply strictly with all directions given by a *Harbour Master* relating to mooring and unmooring, berthing or moving vessels within the limits of the authority of such Harbour Master, but they remain the sole judges whether a manoeuvre can be performed safely when permission to proceed has been granted. Although failure to proceed at the time indicated may be a cause of delay for harbour traffic, the Harbour Masters always respect the pilots' decisions, for instance, the Quebec Harbour Master was aware that there have been delays in berthing ships in Quebec (pp. 325-326) but he considers it is not within his competence to interfere and he had never had any such instances investigated to determine whether the pilots had made the correct decisions. However, a renewed order from the Harbour Master is required if the pilot fails to proceed as ordered in the first place (pp. 322 and ff.).

In Quebec, as in the Pilotage District of New Westminster (Part II, pp. 281 and ff.), the pilots as a group have studied the limitations and hazards created by the physical features of the District and with their combined experience have sought the best solution. The Pilots' Safety Committee has recorded its recommendations in a set of *safety rules* for the information of the pilots and others concerned. Because some of the rules affected the harbour of Quebec, the proposals were submitted to the Montreal (river) pilots and were later approved with some modifications. These rules are only guide lines and are not binding on any pilot but they express the combined experience of all the pilots. These rules, which were drafted by the

pilots in 1964 in the belief that they would assist in speeding up traffic and despatching and would enhance safety, provide *inter alia*:

- (a) Berthing at the Sillery Irving wharf is restricted to daylight hours and flood tide after a half hour's notice given by R.T. and repeated at regular intervals.
- (b) At sheds 21, 18 and 18-26, there is no berthing during the change of tide, i.e., one hour before and after each high and low water.
- (c) At sheds 25 and 26, berthing is recommended on ebb tide only.
- (d) At sheds 27 north, 27, 28-29, 29R, 29W, 30, 31, 32 and B.P. wharf, it is recommended that berthing be executed on ebb tide.
- (e) At the Anglo Pulp piers, in the St. Charles River Basin, due to lack of water at the approaches, times of arrival and departure are left to the pilot's discretion.
- (f) At the outer Princess Louise Basin and piers Nos. 14, 18, 19, 20, and 20W, entering should be on flood tide as long as shed 21 (Pointe à Carcy) is clear and on ebb tide as long as shed 18 is also clear.
- (g) The Inner Basin should be entered on flood tide as long as shed 21 is clear.
- (h) In Ha Ha Bay Harbour, no departures or arrivals are to be effected from or to Powell and Duncan wharves when ships are secured at Berth No. 2 Duncan Wharf and Berth No. 3 Powell Wharf and when any vessel secured at Berth No. 3 Powell Wharf projects beyond the pier.

In addition, the pilots have their own private unwritten *traffic rules* or gentlemen's agreement. At Red Islet where the currents are very strong, they have agreed that in conditions of poor visibility downbound ships use the channel south of Red Islet leaving the north channel free for upbound ships, thereby reducing the risk of collision. The same applies at Morin Shoal, but whether to use the north or the south channel is normally left to a pilot's own judgment. Usually, the pilot makes his decision without discussing the problem with the Master. The Red Islet procedure has since become a general rule applicable to all ships through publication of Notice to Mariners No. 25 of 1969 (pp. 180 and ff.).

The pilots have recommended that they should have the power to require a vessel travelling light to take on ballast if they consider this necessary for the safety of navigation. This feature will have to be covered in legislation, if and when compulsory pilotage is imposed. If pilotage is not compulsory, the Master continues to bear the primary responsibility for the safety of his ship and, if he refuses to comply with the pilot's request, the pilot should refuse to pilot the ship if she is running into danger (subsec. 329(f)(vi) C.S.A.), but otherwise should pilot to the best of his ability in the circumstances. In order to protect the pilot against possible responsibility,



a procedure should be laid down to have the situation recorded, the simplest being an immediate report to the Pilotage Authority over the Traffic Control VHF network.

They have also recommended that ships be required to provide an accommodation ladder for pilots to board and disembark. This requirement has repeatedly been brought to the attention of shipping through Notices to Mariners (e.g., No. 30 (Annual Edition 1969)) but some ships still do not comply. In rough weather, and especially when a ship is light, it is often dangerous to climb a swaying Jacob's ladder. A pilot should never be required to embark or disembark at the risk of death or injury. On the other hand, legislation should not be limited to an accommodation ladder since some modern vessels carry other safer equipment for this purpose, e.g., elevators. The question is already covered in that part of sec. 349 C.S.A. which is still applicable. Subsec 2 makes it an offence for the Master of a ship to fail to "facilitate the coming on board of the pilot", and subsec. 350(1) provides a penalty. Therefore, it is considered that vessels which have failed to comply with the requirement, thereby putting the pilot at risk, should be prosecuted. In the new pilotage legislation that part of subsec. 349(2) should be retained but expressed more explicitly.

The pilots have also asked to be provided with cabin accommodation on board to rest when a vessel has to anchor. To enforce the requirement, they suggest that an indemnity be charged if a cabin is not made available.

This appears a reasonable request if a vessel is expected to remain at anchor over an extended period. This situation is apt to occur frequently with the increase in winter navigation. The pilots should be afforded the opportunity to rest when their services are temporarily not required during extended assignments because the safety of navigation is affected.

These rights and powers of the Pilotage Authority over despatching, of the Harbour Authorities over traffic control, and of the pilots in cases where the safety of the ship is involved, are bound to conflict at times. However, there is no provision in the Quebec District By-law empowering the Pilotage Authority to settle disputes over pilotage matters and the only possible course of action for the aggrieved parties is to lay a charge before the appropriate courts or to take action for the recovery of damages, if any, before the civil courts. Four such instances were brought to the attention of the Commission:

- (a) The *Canuk Trader* whose owner asked, as an exception, to be provided with a pilot of his choice; his request was refused;
- (b) cases where certain pilots refused to berth vessels under certain conditions in Quebec harbour and other pilots carried out the assignment;
- (c) the pilots' revolt against the Pilotage Authority, i.e., the threatened strike in 1960;
- (d) the 1962 strike.

## (8) CANUK TRADER CASE

In 1961, the Canadian Import Company contacted the Pilotage Authority about the possibility of sending S.S. *Canuk Trader* to Chicoutimi — draught 13 to 14 feet, length 440 feet and breadth 57 feet—for a 3,000-ton cargo of scrap metal. On September 22, 1961, the Pilotage Authority sought the opinion of the pilots who advised against the trip on account of the limited width of the winding St. Fulgence Channel. They stated that it was unsafe to navigate the channel with ships longer than 350 feet because the channel would be completely blocked in the event of grounding. Pilot Rousseau, the pilots' President, met the agent concerned and explained the situation to him. The shipping agent insisted because the scrap iron was already at the pier awaiting loading. Pilot Rousseau informed him that the trip could be done in good weather but it would still be risky. However, the decision was up to the shipowner and the pilots agreed to pilot the vessel provided they were relieved of all responsibility.

On October 3, 1961, the Regional Superintendent formally informed the shipping company by letter that the pilots had advised against taking the ship to Chicoutimi, but that, if the Master decided to undertake the voyage despite this advice, the pilot who would be assigned would give him all possible advice and assistance but the venture would be the entire responsibility of the Master.

Similar situations occur in other Pilotage Districts when pilots are requested to conduct movements and manoeuvres they consider particularly hazardous. The Pilotage Authority's attitude is to respect the pilots' opinion and not intervene. The agreed procedure is for the pilot concerned to inform the Master and explain the circumstances to him; if the Master insists on proceeding, the pilot must not refuse his services but do all in his power to make the operation a success.

On October 5, 1961, the Corporation of Pilots issued a bulletin to all its members stating the facts and the procedure that had been agreed upon (Ex. 688). This was not a directive from the Corporation but a suggestion to its members. They were reminded that subsec. 20(f) of the General By-law provides that a pilot has no right to refuse to pilot a vessel except on grounds of her safety. The following procedure was suggested: when the assigned pilot embarks he should inform the Master of the potential danger; if the Master insists on proceeding, the pilot should tell him he is prepared to give him all necessary advice to the best of his knowledge and ability, provided the Master signs a waiver of responsibility; if the Master refuses to sign the waiver, the pilot should request to be relieved and upon disembarking from the ship he should make a report to the local Supervisor. However, it was pointed out that it was not in the best interests of the pilot to refuse to embark. If there were a refusal on the part of the pilot, he should be replaced immediately by the next one on the roster.

The reason for the waiver was not really to obtain a document releasing the pilot of his responsibility but merely to avoid situations with which pilots had been confronted before and to enable them to prove that they had so advised the Master, if he later denied he had been warned. Therefore, the term "waiver" may not be absolutely correct, but it is used in this sense in the shipping world, e.g., it is reported that signing similar waivers is mandatory in the Suez Canal. The Pilotage Authority did not suggest a warning in writing and was not aware that this was being suggested, but the local Supervisor and the Regional Superintendent had been informed of the contents of the bulletin (Ex. 688, October 5, 1961) and they concurred.

When the *Canuk Trader* arrived, a pilot went aboard and helped the Master to the best of his ability. The vessel proceeded to Chicoutimi and, with the assistance of two tugs, negotiated St. Fulgence Channel. They waited for ideal weather conditions and passed the curves at the height of the flood tide (Exs. 602 and 603).

That was the only occasion when the Corporation of Pilots had to provide such advice to the pilots. It was not the first case of a large ship proceeding to Chicoutimi but on the previous occasion it was a tanker belonging to the Imperial Oil Company. Both company and Master knew about the risk beforehand and had accepted it.

#### (9) BERTHING PROBLEMS IN QUEBEC HARBOUR

Berthing in certain areas of Quebec harbour presents difficulties which are serious enough at times to render the manoeuvre temporarily impossible, or at least too dangerous to be attempted.

Since each pilot makes his own decision according to his ability, it is possible that one who is more expert will agree to berth a ship while another will decline to do so. It has always been the policy of the Pilotage Authority to respect the pilots' right to their own judgment. It is recognized that pilots differ in skill and capabilities and the Authority does not attempt to tell them how to perform their assignments. While it is possible that one pilot will take more risks than another, there are some pilots who will berth only under ideal conditions and will always automatically refuse to berth on a flood tide, irrespective of the type of ship or other factors, e.g., whether berth 25 or 26 has been allocated, or whether the wind is westerly and counteracts the tide to render the manoeuvre less dangerous. The contrary is also true: there are some pilots who will readily handle any berthing except under the most adverse circumstances.

The shipowners do not understand why the Quebec pilots and some Montreal (river) pilots seem to have no difficulty in berthing during any state of either flood or ebb tide, but some Montreal (river) pilots regularly refuse to berth vessels although ships so refused are berthed without delay by a Quebec pilot who replaces the Montreal (river) pilot for that very purpose.



Pilot R. Barras stated that conditions for berthing vary with weather conditions, the state of the tide and the type of ship. As far as he is concerned (and he considers himself among the lucky ones), in his long career he never met conditions that were so adverse as to prevent him from manoeuvring in the harbour of Quebec. Once, around 1958-59, he relieved a Montreal pilot to berth a ship.

Ex-pilot Langlois recalled one instance around 1957-58 when a ship arrived at Quebec at night destined to Pier No. 26. The tide was ebbing and the Montreal pilot decided to wait for flood tide before berthing. Since pilot Langlois was one of their special pilots, the Company called him. He berthed the ship without difficulty even without the aid of tugs. This was the only time in his long career that he had to relieve a Montreal pilot for this purpose. He added that he went to the estuary of the St. Charles River regularly on all states of the tide but there are some special cases where berthing is impossible, e.g., in a strong east wind berthing in the St. Charles River is bound to be difficult and it is quite possible that there would be some damage even if tugs were used. These extreme conditions might occur frequently enough, especially in the fall, but apart from these special circumstances he felt he could handle any type of ship safely.

Pilot Gauthier, a Montreal (river) pilot, stated that on a flood tide he never berthed ships at sheds 25 and 26 because the wharves are so situated that the tide forces a ship against them and the tugs available in Quebec are not powerful enough to counteract the tidal set. He never berthed a ship of any size there on a flood tide. He always berths there starboard side to, i.e., with the bow against the ebb current, but he did not know the practice of his fellow pilots. Pilot Gauthier added that he never entered the St. Charles Basin in a large ship, i.e., 10,000 tons and over, on a flood tide because, in his opinion, the adverse currents make it dangerous to pass the breakwater, but he had berthed smaller ships there under these circumstances. He was aware that larger ships were berthed under these conditions but it was not his practice to do so. He pointed out that when the tide is flooding the tidal currents cut across the entrance to the Basin at a speed of about five knots and set a vessel toward the breakwater on which sheds 26, 25 and 27 are erected. Ships berthing at these sheds are almost always assisted by tugs, but these would be of little help against a current running broadside against a ship drawing 27 or 28 feet.

Mr. J. H. Colquhoun, Chairman of the Steamship Committee in Quebec City, which represents many companies such as C.P.R., Cunard, Ramsey Greig and Canadian Import, has encountered this situation and complained about it. It is his experience that the pilots berth ships downbound from Montreal starboard side to on an ebb tide but, if they arrive on a flood tide, they are most likely to anchor and wait for the ebb tide. To his knowledge the Quebec pilots adopt the same attitude about berthing at piers 25 and 26

and wait for a suitable tide to berth starboard side to. He stated that this has become more common since the abolition of the special pilot system in 1960. His company's special pilots berthed on either tide at these particular wharves, e.g., on one occasion one of their largest ships, *M. V. Ivernia*, was berthed at pier No. 26 port side to by one of their special pilots.

He admitted, however, that the physical situation at these wharves has changed since that time and, therefore, the manoeuvre is more difficult now. Piers 18 and 26 are now one continuous wharf. Prior to 1960, pier 18 jutted over piers 26 and 25 into the River. This extension has now been continued to include pier 26 and it is expected that eventually it will also take in pier 25, thus making the three piers a continuous seawall. Before pier 26 was changed, the pilots used to berth port side to as well, although this was difficult. Now it is almost impossible, but they hope that a straight wharf will enable them to do so.

The pilots now assigned to Cunard passenger ships are Class A pilots, some of whom were formerly special pilots. Even these pilots, although they do not refuse to berth port side to, would advise a Master that starboard side to is preferable. Mr. Colquhoun had no knowledge of a Cunard Master refusing to take a pilot's advice. When he pointed out to the pilots that until quite recently ships berthed port side to at sheds 25 and 26, they replied that it was a very dangerous practice.

He added that the agents are quite concerned about the matter because this change means an extra delay of approximately seven hours waiting for the right tide, if a ship arrives just at the beginning of the flood, and with modern vessels such delays are expensive. However, his company had never by-passed Quebec harbour for this particular reason.

Occasionally there is a similar difficulty with a Montreal pilot berthing inside the St. Charles River Basin but this is overcome by sending a Quebec District pilot to take the assignment.

Mr. William E. Brodie, Quebec Manager of Ramsey Greig Company, Steamship Agents, corroborated the previous witness, and confirmed he had met with the same difficulties with regard to sheds 26 and 25 after changes in the construction of the wharf. He was not greatly concerned about delay, however, because before scheduling work, i.e., calling stevedores, etc., he considered the tide factor. He also agreed about berthing in the St. Charles River estuary: some Montreal (river) pilots decline to berth if they are obliged to pass the breakwater against a flood tide and his remedy in such a case is to employ a Quebec pilot who berths the ship without delay. While there is no loss of time, it means an extra charge of \$30, i.e., a movage fee plus one pilot boat fee of \$10 per pilot (now \$40 since the 50 per cent increase in movage charges in 1965). His company never experienced similar delays or similar situations with regard to the St. Charles River estuary when they had their special pilots who all berthed at any state of the tide.

They try to plan the departure of their vessels downbound from Montreal so as to arrive at Quebec at the right stage of the tide, even in the middle of the night, which means that ships sometimes have had to sail earlier than usual.

Montreal (river) pilots at times refused to go to other berths as well. When Mr. Hamel, the former Supervisor, made inquiries he was informed by the pilots concerned that they were inexperienced in berthing ships at places like the Champlain or Lorne Dry Docks at the Lauzon Shipyard. Since they did not know how to proceed, they did not feel competent.

Delays in berthing may also be caused by other factors such as lack of radio communication with the ship. This situation should have been corrected by now with the new improvement of the radio network, the *Traffic Control System* and the portable radio sets carried by pilots when vessels do not have the necessary equipment. Mr. Colquhoun referred to one instance in 1963 which is revealing in that it explains the procedure followed in the District. In the spring of 1963, M. V. *Letitia* was expected at shed 25 and stevedores had been ordered on the basis of an E.T.A. The ship was delayed and a later E.T.A. reported she was anchoring on the pilot's advice because he had been unable to obtain information by radiotelephone as to the exact situation in the harbour. Mr. Colquhoun then tried to communicate with the ship to have her berth immediately on arrival but he was unable to establish communication, although he used the Marconi system all night. For reasons unknown, his calls did not get through although later inquiries indicated that the ship's set was in good working order. Lacking instructions, the Master anchored with a resultant loss of time and the cost of the stevedores' gang which was particularly expensive because it was a Sunday (for the stevedores alone some \$800). The ship lost 24 hours, which would amount to about \$2,000 and, if loss of earnings were included, the total would be much greater.

He pointed out that one of their problems is how to plan unloading. In the collective agreement covering the working conditions of longshoremen the minimum notice for hiring a gang is two hours during the day and by 3.00 p.m. for work after midnight. Requests for Sunday must be made Saturday before 7.00 p.m. (*Letitia* was a Sunday hiring).

The former Supervisor, Captain Allard, stated that during his ten years of office at Quebec he found the Montreal (river) pilots refused to berth in the St. Charles River and at sheds 25 and 26 on a flood tide. He once took the matter up with the Pilots' Committee of the Mid St. Lawrence Corporation (Montreal (river) pilots) pointing out that the Quebec pilots berthed their ships at any berth and at almost any time of day or night. The Montreal pilots, however, were of the opinion that these manoeuvres were too dangerous and that no chances should be taken. Apart from discussing the matter with the Montreal Pilots' Committee, he made no report to his superiors but was certain that they were aware of the situation. He added that the National



Harbours Board, for whom he was the Harbour Master at Quebec when the Commission held its hearings there, was also aware of the situation and was not satisfied because it entailed delays in the occupancy of their berths. However, they accepted the situation as one of the peculiarities of the harbour of Quebec and preferred to "live with it" and to have ships delayed rather than have their wharves damaged.

He pointed out that all pilots agreed, however, that under extremely adverse conditions, such as a strong flood tide and a strong northeast wind, berthing should be delayed. There are also other factors, e.g., type of ship, type of engine and draught, that must be taken into consideration.

During the last ten years, the Pilotage Authority's attention has been drawn to the fact that some pilots licensed for the Three Rivers-Quebec section have refused to berth their vessels in the St. Charles River estuary on flood tide. The question was investigated at the time but was not pursued further and the Pilotage Authority took no action: "We have never tried to tell a pilot what he can do and what he can't do at any particular state of the tide". It was stated they might try to persuade a pilot to take a different view but the final decision was always left to him.

A few of the Quebec District pilots volunteer each year to carry out berthing or moorage assignments in the harbour of Quebec in addition to their normal pilotage duties (p. 437). When a Montreal pilot refuses to berth a ship a Quebec District pilot is usually asked to do so as soon as possible but the problem is to know in advance what is required so that the necessary arrangements can be made. The agents complained not so much because they had to have a relief pilot but because often they were not informed in advance whether the Montreal pilot would berth the vessel or not. The Quebec despatchers need advance information to ensure the availability of a berthing pilot and to arrange for him to meet the ship on arrival to prevent undue delay.

Mr. Brodie stated that when information is received that a pilot will not berth his ship in Quebec or intends to wait for a flood tide they immediately ask for a local pilot. They do not want to get into an argument—they simply want to have their ship alongside.

But even with advance notice, berthing pilots are not always available. This happened to Mr. Brodie in the case of M.V. *Caren Q* which arrived at Quebec June 27, 1963, from Montreal. She was due about 8.00 a.m. for shed 29 in the St. Charles Basin. Since the ship was expected at the beginning of flood tide and he did not know whether the Montreal (river) pilot would bring the ship in or not, he called the pilotage office and left the despatcher the usual open order for a berthing pilot. Later, however, the despatcher reported that none was available. The ship had to anchor and another pilot was ordered for 12.30 p.m., shortly after the change of the tide, and the ship was berthed at 1.00 p.m. In this case, there was no expense in connection

with hiring stevedores because he had time to cancel them. He did not ascertain why the Montreal pilot refused to berth the ship, but the fact that the vessel was turbine driven may have been a deciding factor.

When a berthing pilot is assigned, there was a movage charge of \$20 (now \$30 since the 50 per cent surcharge imposed on movages in 1965) payable to the Quebec Pilotage Authority and one or two pilot boat charges depending whether the pilot being relieved stays on board.

When a berthing pilot is used in the case of a down-bound vessel, both District Supervisors send their own separate bills, the Montreal Supervisor for pilotage downbound and the Quebec Supervisor for berthing, i.e., a movage charge. All such bills have been paid by the company concerned but at times there have been complaints. The shipping interests complain that this movage charge amounts, in effect, to a surcharge and, in view of the fact that the Montreal pilot did not bring the ship to her destination, that he should not be entitled to the dues that are payable for the fulfilment of his assignment and, hence, the movage charge should be deducted from the dues payable to the Montreal pilot. When the Supervisor receives any complaints of this nature he transmits them to the Regional Superintendent.

However, the former Supervisor, Mr. Maheux, stated that infrequently agents did not pay these charges when the pilot refused on grounds other than adverse conditions. He expressed the opinion that, in such cases, the agents were justified in refusing to pay.

To sum up from the shipowner's point of view: the situation is contradictory since the full charge must be paid for the river pilot because he says it is unsafe to berth the ship, and yet berthing fees are charged by the Quebec pilot because he feels it is safe and does it. It is argued that as far as the Montreal pilot was concerned, he was entitled to full dues in any case because he was discharged by the Master, the owner or the agent and, furthermore, had been relieved by another pilot.

This is a long-standing difficulty between the two groups of pilots.

The shipowners complain simply to support the principle involved because the charges are far less than the financial loss they would otherwise incur and, since they do not wish to be deprived of the services of the Quebec District berthing pilots, the bills are finally paid.

At the time of the Commission's hearings the Quebec pilots complained that the berthing charges (movage rate) were quite inadequate because they have to pay transportation from home to the pilot boat and, after the service has been performed, from the pier concerned back home plus the 10 per cent contribution to the Pension Fund. They feel there is not much left to repay them for the time involved and the service rendered. Since that time there has been a 50% increase in the movage charges (P.C. 1965-1172 dated June 23, 1965 and P.C. 1966-779 dated April 29, 1966, Ex. 429).

*(a) Quebec Harbour Pilotage Statistics*

To establish the importance of Quebec berthing problems in relation to the pilotage service as a whole it is essential to know the incidence of contentious cases. Unfortunately, the pilots who raised the question did not produce any statistics to support their recommendation. The impression gained from all the evidence on the subject, however, is to the effect that exceptional circumstances were presented as if they were the current situation or, in other words, that the problem was exaggerated.

Previously, the pilots made a similar proposal which, significantly, they later modified into a request for a berthing fee when, after analysing their statistics, they found it would not have been financially advantageous to have a separate group of berthing pilots. The shipping interests indicated that the need for berthing pilots arose only occasionally and they argued that the compulsory employment of a berthing pilot would merely mean that their costs would increase considerably in the long run if their vessels were to continue to stop at Quebec. They warned that this could prove to be detrimental to Quebec.

No pertinent information can be deduced from the pilotage statistics since no distinction is made between vessels which berthed at Quebec and those which were merely in transit, nor from the harbour and D.B.S. statistics showing the number of arrivals, even when vessels are segregated between ocean-going and others, since, although it may be assumed that all ocean-going vessels took pilots, the contrary would not be true because a great number are small vessels which are exempt while the compulsory payment of dues applies to the larger ones. Furthermore, there is a considerable discrepancy between the two sets of figures. For the year 1964, the number of arrivals is quoted as follows:

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*D.B.S. Statistics (Exs. 15 and 1483 respectively):*

Foreign-going shipping vessels.....	850
Coastwise shipping vessels.....	1,378
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All vessels.....	2,228
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Vessels of 250 NRT and over.....	1,847

*N.H.B. Statistics (Ex. 479):*

Ocean-going vessels.....	993
Coastal vessels.....	2,476
	<hr/>
Total arrivals in Quebec harbour.....	3,469

*Arrivals with Pilots (Ex. 1466(p)):*

According to source forms.....	1,068
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However, D.B.S. statistics (vide Table, pp. 150-151) show that since 1959 the marked trend year after year has been to fewer vessels of larger size. For instance, in the nine-year period up to 1967, the number of arrivals of vessels of 250 NRT and over in Quebec decreased by 25.9 per cent, but the average NRT increased by 36.8 per cent. It is quite possible that this trend to larger vessels may soon cause a change of pattern in navigation on the St. Lawrence River where more and more ocean-going ships will have to make Quebec their inland terminal because their deep draught will prevent them from proceeding farther upriver. While this will obviously have a substantial effect on the aggregate total number of ships that stop at Quebec, it will not necessarily mean a greater number since, as has been found elsewhere (e.g., the entry into service of the bulk carriers *Cape Breton Miner* and *Ontario Power*, Part III, p. 279), a large ship usually replaces a number of smaller ones, and thus brings about a smaller number of arrivals. The governing factors are too hypothetical to be taken into consideration at the present time.

The rest of the evidence is rather vague, although it indicates that the problem is far from crucial.

The former Supervisor of Pilots, Mr. Hamel, stated that during his time in office a pilot very seldom asked to be replaced for a berthing assignment in Quebec, e.g., in 1960, in the year prior to his retirement, this might have occurred 10 or 15 times.

The boatman, Mr. André Vézina, stated that every week his pilot launch is used to relieve a pilot in the harbour for the purpose of berthing a ship on account of the state of the tide, mostly for vessels arriving from upriver.

In order to appraise the situation, the Commission made an analysis (Ex. 1466(p)) of the 1964 Source Forms involving either berthing, anchoring or moving in the harbour of Quebec performed by either Quebec or Montreal District pilots. This analysis and its findings are still valid since the situation has not changed appreciably, except that, according to D.B.S. statistics, the number of arrivals of vessels of 250 NRT and over has decreased since then by 12.8%. The following table extracted from the exhibit indicates the number of arrivals involving pilots with a breakdown by harbour areas. It shows whether the river pilot was from Quebec or Montreal, whether the trip was completed without interruption as far as berthing is concerned, i.e., that the vessel was berthed by its river pilot upon arrival in the harbour, or whether the process was interrupted and the ship was berthed by him after a period at anchor or in the stream stemming the current, or whether a berthing pilot was employed.

## ARRIVALS AT QUEBEC HARBOUR IN 1964

Location*	Quebec Pilots				Montreal Pilots				Grand Total		
	Uninter- rupted	Interrupted			Totals	Uninter- rupted	Interrupted			Totals	
		Anchor	Stream	2nd Pilot			Anchor	Stream			2nd Pilot
<i>East End</i>											
Princess Louise Basin:											
Inner basin—											
Berths 1 to 7 inclusive.....	6	2	1	15	24	2	0	0	0	2	
Outer basin—											
Berths 14, 18 and 19.....	2	1	1	3	7	8	3	1	4	16	
Berth 20 (grain reception).....	1	0	0	2	3	6	0	0	8	14	
					34					32	66
Pointe à Carcy:					7					18	25
Berths 8, 22 and 21.....	4	0	1	2		17	1	0	0		
Breakwater:											
Berth 18 (grain reception).....	1	0	0	0	1	21	0	0	3	24	
Berths 18/26 and 26.....	11	0	0	4	15	25	7	1	19	52	
Berth 25.....	6	1	0	5	12	28	9	0	18	55	
					28					131	159
St. Charles Estuary:											
Berth 27.....	19	3	3	4	29	37	12	0	4	53	
Berth 28.....	14	3	0	4	21	18	3	0	9	30	
Berths 28/29 and 29 (grain shipping).....	17	4	0	9	30	57	13	2	15	87	
Berths 30, 31 and 32 (Canadian Import).....	3	1	3	4	11	18	1	2	4	25	
Anglo Pulp wharf.....	0	0	0	2	2	10	0	0	1	11	

Berth 50.....	7	1	0	0	0	8	15	0	0	1	16
Berth not stated.....	0	0	0	0	0	0	2	0	0	0	2
						101					224
											325
<i>West End</i>											
Wolfe's Cove—											
Sections 1 to 8 inclusive.....	140	19	3	11	173	116	7	2	12	137	
Oil berths.....	1	1	0	2	4	1	0	0	0	1	
Irving Oil berth (Sillery wharf).....	0	1	0	5	6	7	1	0	1	9	
					183					147	330
<i>Central Section</i>											
Queen's wharf.....	0	0	0	0	0	9	0	0	0	9	
C.S.L. wharf.....	1	0	0	0	1	0	0	0	0	0	
					1					9	10
<i>South Side</i>											
Launon wharves and dry docks.....	27	1	1	1	30	37	0	0	4	41	
Lévis wharves.....	5	0	0	2	7	1	1	0	0	2	
					37					43	80
Not identified on "Source Forms" ....	23	3	0	0	26	42	4	1	0	47	73
	288	41	13			477	62	9			
		342		75	417		548		103		
										651	1,068

\*Berths identified merely as a section were entered as one of the sections of the Wolfe's Cove Terminal; if the reference was merely a number, it was taken as referring to a berth number, e.g., Section 8 was placed in Wolfe's Cove and #8 as Berth 8 (Pointe à Carcy).

SOURCE: Ex. 1466(p).



Analysis shows that in 1964 there were 1,068 arrivals (not counting ships in transit) in the harbour of Quebec which were serviced by the pilots of both Districts. Of these, 71.5% were berthed upon arrival without any reported delay. In the remaining cases, 11.8% of the vessels were berthed by their river pilot, with or without going to anchorage but after some delay. In 16.7% of the cases, berthings were not performed by the ship's river pilot but by a second pilot from the Quebec group. As will be seen later, this percentage is almost the same for both groups of pilots but, surprisingly enough, the record of the Montreal pilots is slightly better, despite the fact most of the berthings they performed were in the more difficult areas of the harbour.

The analysis also reveals that most of the delays were caused by circumstances beyond the pilots' control, such as unavailability of berths or tugs, which could not have been remedied or overcome by a specialized group of harbour pilots.

When a delay is expected or unavoidable, the Master has to decide what action he will take. If the delay will be brief, the best solution may be simply to reduce speed *en route* or to occupy the time stemming the current in the harbour, but if a longer delay is expected the Master has no choice except to anchor either outside the harbour limits, e.g., to the east off St. Jean, Ile d'Orléans, or at La Martinière anchorage, or to the west off St. Augustin or Pointe Platon (in which case the pilot must be detained) or in the harbour anchorage (in which case the Master may either detain or discharge the pilot). When the delay will be long or is of uncertain duration, the pilot is usually discharged. In this event, a berthing pilot must be used when the berth which has been allocated becomes available or when the circumstances which previously prevented berthing change. The pilot might also be discharged if it is considered that a rested and more experienced Quebec pilot could berth the ship without delay in the existing circumstances, e.g., on a flood tide with or without a northeasterly wind, particularly if the berth is in the St. Charles River estuary or at the breakwater. The maximum delay that would otherwise be incurred in such cases would be the interval until the tide changed.

Even in ideal weather conditions, there are occasions when a prudent pilot will delay berthing. At times, a few minutes may mean the difference between a difficult, hazardous manoeuvre and a speedy, safe one, e.g., at wharves exposed to strong tidal currents, by waiting for slack water at the change of the tide. Such a delay, even of half an hour or more, is amply justified.

The analysis shows that 40 Quebec District pilots were used at one time or another in 1964 in Quebec harbour as relief berthing pilots or to perform berthings or movages.

(b) *Analysis of Quebec Pilots' Performance*

In 75 cases out of 417 arrivals (18%), the vessel was not berthed by the river pilot. With one exception, it was not stated why the river pilot did not berth his vessel but an analysis of the records shows clearly that in almost all cases there were circumstances beyond the pilot's control. In fact, vessels were berthed by berthing pilots only three times on arrival and on three other occasions within one hour after arrival. In 27 cases, it is obvious that the change of pilots was warranted by circumstances not involving the pilot, since the vessels remained at a Quebec anchorage considerably longer than the time required for the tide to change. Of these, 12 waited between 10 and 20 hours and 14 for over 20 hours, including 3 who remained over two days. These 27 cases do not include three ships bound for the inner basin who waited at anchor less than 15 hours because the basin is tidal and the gate can not be opened except at the height of flood tide.

Therefore, with the exception of perhaps 6 cases, a berthing pilot was not employed for the purpose of reducing delays. In these cases the Master doubtless found it advisable to discharge the river pilot rather than detain him during the long and unavoidable waiting period when he found that the vessel could not be berthed upon arrival for reasons beyond the pilot's control, such as unavailability of berths or inaccessibility of the inner basin (as happened 15 times).

In 342 cases (82%), the ship was berthed at Quebec by her Quebec river pilot at the end of the trip, and in only 54 cases (12.9%), some delay was incurred. In a great number of these 54 cases, the reasons for the delay were given — mostly they were due to circumstances beyond the pilots' control.

The analysis by harbour zones of these 54 cases and of the 75 cases where there was a change of pilots reveals the following:

- (i) *Princess Louise Basin.* As seen earlier, entrance to the inner basin is perforce limited to the height of the flood tide and there are bound to be long delays unless vessels arrive at precisely the right time. The entrance to the outer basin can not be negotiated except at very slow speed, first, because the gate is narrow and, second, because the basin is small and a vessel must have very little way on and still remain under control. Because the entrance faces the river and is directly affected by the current, the basin can be entered at such slow speed only during slack water. A tidal flow of only a few knots, either ebbing or flooding, makes the operation risky and usually impossible. These circumstances are such that the availability of a group of berthing pilots would not improve the situation in that locality. It would always be necessary to wait for the right time of the tide and long delays would continue to be encountered as far as the inner basin is concerned. This is no doubt the reason why

most of the ships bound for the Princess Louise Basin were taken in by a second pilot after a prolonged waiting period at anchor. In 1964, only 8% of the ships that berthed there had a Quebec pilot on board.

- (ii) The Quebec pilots handled very little traffic at the breakwater berths (18, 18/26, 26 and 25): they had only 28 arrivals, i.e., less than 7% of their traffic, which was in sharp contrast with the experience of the Montreal pilots. In 18 cases, the ships were berthed upon arrival. The river pilot waited only once at anchor and this was for the ebb tide to proceed to berth No. 25. In 9 cases, there was a change of pilots but, as seen earlier, the reasons were not given. However, it is obvious that in some cases there were other reasons than the tide, e.g., one ship waited at anchor for more than 10 hours and another for more than a day.
- (iii) There is very little traffic in the Pointe à Carcy area. In 1964, the Quebec pilots brought only 7 ships there in all (less than 2% of their traffic). This area, therefore, is negligible in appraising the present problem.
- (iv) The St. Charles River estuary and the Wolfe's Cove Terminals are the areas where most of the ships with Quebec pilots aboard are accommodated. In 1964, 24.4% went to the St. Charles River berths and 42.5% to the Wolfe's Cove Terminals. As seen earlier, the main difficulty with the St. Charles River is entering against the cross current created by the flood tide in the vicinity of the breakwater. The problem is intensified when there is a northeasterly wind which would also hamper berthing at the west side wharves. However, in 60 of the 101 arrivals there in 1964, conditions were either satisfactory or were successfully overcome by the pilots because these vessels were berthed upon arrival with no delay. In 12 cases, the river pilot was delayed before he was able to berth his ship. In 6 of these 12 cases, the reason for the delay was given: once for the tide, three times because tugs were not available, once for lack of a berth and once to wait for orders. In the 23 cases where there was a change of pilot, the reasons are not given but it is obvious that in some cases it was not on account of the tide. Two vessels waited more than 2 days and 1 for more than 1 day. In one case, a vessel arrived during ebb tide but did not proceed to her berth and, in another case, the vessel waited 4 hours after the beginning of the ebb before moving in to berth. If the exact causes had been recorded on these occasions, it is to be expected that similar reasons to those previously given would have been revealed. Therefore, in only a few instances would the availability of a specialized group of berthing pilots have improved the situation



somewhat since most of the delays were beyond the pilot's control no matter how skilled and rested he was.

- (v) Out of 177 vessels upbound that berthed at Wolfe's Cove Terminals, with or without a change of pilot, 36 (20%) were delayed for one reason or another. In 17 cases, the reasons were given: in 9, the berth was not available; in 2, they waited for the tide in order to berth the vessel starboard side to at the Master's request (presumably on account of the way the cargo was stowed or was to be stowed); other reasons were being ahead of E.T.A., awaiting agents' orders, engine trouble, waiting for tugs; the tide was given as the sole reason in only 2 cases. In some instances where no reason was given, it was obviously not the tide, e.g., one ship waited at anchor nearly 12 hours. In 13 cases, the delays were such that the Master discharged the river pilot and later employed another pilot for berthing. It is worth noting that this area does not pose difficult berthing problems at any stage of the tide or of the day, but, nevertheless, there was still a high percentage of delays.
- (vi) As seen earlier, conditions are extremely adverse at the Irving Oil Wharf and it is worth noting that all 6 vessels brought there by Quebec pilots were not berthed upon arrival. In 5 cases, the delays were so long that the river pilot was discharged and the ship berthed by a fresh pilot when favourable conditions prevailed. The pilots have testified that to do otherwise would endanger the ship. Therefore, it is doubtful that regular berthing pilots would act otherwise. In any event, the traffic there is negligible.
- (vii) Vessels brought to the Lauzon berths and dry docks are generally under, or for, repair and may not be as manoeuvrable as others. They must wait for the right state of the tide to enter the dry docks. Delays caused by such conditions are beyond the pilots' control.

(c) *Analysis of Montreal Pilots' Performance*

The Commission was led to believe that the main problems in Quebec was caused by the Montreal pilots who repeatedly delayed ships upon arrival while waiting for favourable tidal conditions before berthing, and that the remedy adopted was for the agents to employ a Quebec pilot to berth immediately upon a vessel's arrival rather than let her anchor and wait for the tide to change. However, analysis of the 1964 Source Forms shows a completely different picture and corrects the impression given by the evidence, namely:

- (i) Most ships allocated to the most difficult berths are handled by the Montreal pilots: in 1964, they brought 131 vessels to the breakwater berths (the Quebec pilots 28) and 224 in the St. Charles

estuary (the Quebec pilots 101). The Montreal pilots accounted for 73.3% of the traffic there and the Quebec pilots 26.7%.

- (ii) Despite this, the Montreal pilots have the better record for berthing on arrival both in the St. Charles estuary and at the breakwater: they berthed 65.1% of their vessels on arrival while the Quebec pilots did so 60.5% of the time.
- (iii) The Quebec pilots were relieved on arrival for berthing purposes in 75 instances and the Montreal pilots in 103 instances. If any meaning is to be attached to these statistics, the Montreal pilots' record is better when compared with the total number of berthings effected since the Quebec pilots were relieved in 18% of the cases while the Montreal pilots only 15.8% of the time.
- (iv) The berthing pilot appears to have been a relief pilot very rarely. Berthing was effected without delay in only 8 of the 103 cases in (iii) above and in 3 others the vessel was berthed within an hour after arrival. In the other 92 cases, berthing seems to have been delayed for reasons beyond the pilots' control (whether a Montreal or Quebec District pilot) and in the circumstances the Master chose to discharge rather than detain the pilot.

The reasons for the changeover are mentioned in only 4 cases: radar trouble, waiting for tugs, accumulation of ice which prevented berthing and waiting for low water to dock safely in the Lorne Dry Dock. An analysis of the records, however, indicates that in 34 cases it could not have been the tide because the vessels waited at anchor more than 10 hours. A breakdown of the delays in those 103 cases where, for one reason or another, the Master decided to discharge the Montreal pilot and eventually had to use a fresh pilot for berthing (which then amounted to a moveage that had to be performed by a Quebec pilot) shows:

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Berthed upon arrival.....	8
Berthed within less than an hour after arrival.....	3
Berthed within one or two hours after arrival.....	3
Berthed between two and three hours after arrival.....	12
Berthed between three and four hours after arrival.....	7
Berthed between four and five hours after arrival.....	9
Berthed between five and six hours after arrival.....	11
Berthed between six and seven hours after arrival.....	5
Berthed between seven and eight hours after arrival.....	5
Berthed between eight and nine hours after arrival.....	3
Berthed between nine and ten hours after arrival.....	4
Berthed between ten and twenty hours after arrival.....	15
Berthed between twenty hours and two days after arrival.....	10
Berthed between two days and three days after arrival.....	5
Berthed between three and four days after arrival.....	1
Berthed between four days and more after arrival.....	2

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In only 71 out of 548 cases, the Montreal pilot either anchored before berthing or spent some time in the stream. In many of these cases the reasons were stated:

- (i) In 19 cases, to await favourable tide conditions, 4 times for breakwater berths and 12 times for St. Charles estuary berths. The longest delay was 4 hours 25 minutes; the average delay was 2 hours.
- (ii) In 15 cases, berths were not available.
- (iii) In 7 cases, tugs were not readily available. Except in one unusual case, these delays were less than 1 hour on the average.
- (iv) In 4 cases, ice conditions prevented berthing and the vessel had to wait until tugs cleared the icefloes.
- (v) There were also other reasons, e.g., in two cases, the Master required the vessel to be berthed starboard side to and they had to wait for the ebb tide. In another instance, the delay was due to engine trouble; in another, the vessel was ahead of the scheduled time of arrival; in one case, it was fog; on another occasion, adverse weather conditions prevented the ship from entering the outer basin.

For the remaining cases, the reasons were not advanced but one may surmise that they were a combination of those that have been reported.

It appears from this analysis that the creation of a compulsory berthing service would not have materially changed the situation and that very little time would have been saved but that a substantial increase in pilotage fees would have been incurred by the shipowners because additional fees for movages and pilot boat service would have been incurred in 890 cases, mostly when a change of pilot was neither necessary nor useful.

If a group of berthing pilots had been created to handle all berthing in Quebec harbour and all movages, the following services would have been performed by this group in 1964 (Ex. 1466(p)).

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Berthing of upbound vessels .....	417
Berthing of downbound vessels .....	651
Movages from wharf to wharf .....	123
Movages from wharf to anchorage .....	22
Movages from anchorage to wharf .....	80
Movages from anchorage to anchorage .....	16
Total .....	<u>1309</u>

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At an average of \$20 per movage, the berthing pilots would have earned a total of \$26,180 in 1964 (the addition of the 50% surcharge that was granted in 1965 would have raised the amount to \$39,270). These are gross



figures from which must be subtracted the 10% pension deduction, the pilots' contributions to the expenses of their various organizations and also their transportation expenses, which are quite high in the case of harbour pilots on account of the frequency of their assignments. Assuming that the number of berthing pilots needed to meet requirements without delaying vessels would be four, the gross revenue needed in 1964 to make this group's income equal to that of the river pilots would have been \$71,000 with the result that it would have been necessary to raise the average charge for service to \$55 not including any charge for the use of the pilot launch.

The 1964 Source Forms listed 34 cases of a charge for a moveage in the harbour of Quebec that was performed by a Montreal pilot. Although there is nothing at present either in the Act or in the By-law to the effect that all moveages in the harbour of Quebec are to be performed by Quebec District pilots, this is the rule that is followed. These 34 cases are not exceptions but cases over which no one had any control. When these assignments were begun they were trip assignments but due to adverse or unavoidable circumstances the trip could not be continued. The details accompanying each entry give the necessary explanation. For example, most are instances where the pilots had embarked for an upbound trip but before leaving the harbour were prevented from continuing for reasons such as engine trouble or too much ice during a winter trip and were obliged to return to a Quebec berth. In these cases, only a moveage was charged by the Montreal Pilotage Authority, according to its tariff, rather than a partial pilotage trip. These are unforeseeable cases that could not have been attended to by Quebec pilots.

The analysis made by the Commission of the shipping casualties, accidents and incidents which happened in the course of berthing or unberthing, or at a harbour anchorage reveals the disturbing fact that they are almost double those which occurred in the ordinary course of navigating (vide p. 339 and Appendix A). However, they are not frequent nor overly serious in the aggregate. It might have been revealing to ascertain the causes of each occurrence to determine whether they were due to lack of skill and knowledge, or to taking risks that could easily have been avoided by waiting for a change of tide. The available information indicates what many other factors contributed, such as an error by the tug Master or engine failure. Once these cases are eliminated, the number of accidents involving a pilot's responsibility is not large enough to be considered indicative of a prevailing situation that the creation of a specialized group of berthing pilots would correct.

During the nine years 1956 to 1964 inclusive the Quebec pilots were involved in 88 shipping casualties, accidents or incidents in the course of navigating vessels, and in 148 while berthing or at anchor in the various harbours and ports throughout the District. These were generally of a relatively minor character. Of the 148, only two could be classified as major

casualties (1 major stranding and 1 heavy damage to a ship exceeding \$50,000 when the ship struck a pier). However, 121 were minor casualties, i.e., 4 minor strandings, minor damage to the ship in 71 cases of striking a wharf, 24 cases of striking another vessel or vessels while berthing, 4 cases of striking another vessel at anchor and 18 other circumstances.

In 1963, of 34 reported shipping casualties, accidents and incidents, 26 happened while berthing, unberthing and anchoring and, of those, 12 striking a wharf, 3 striking another vessel while berthing and 3 striking another vessel at anchor. The 1964 record was much better. While there were 834 berthings, anchorages and movages in Quebec harbour by Quebec pilots, there were only 8 cases (12 in the whole District) while berthing, unberthing and at anchor. 6 cases involved striking wharves, 5 of which resulted in minor damage to the ships concerned.

As for the Montreal pilots during those 9 years, out of a total of 772 casualties, accidents and incidents, 502 happened while berthing and anchoring, 4 of which were in Quebec. That year the Montreal pilots did 685 berthings, anchorages and movages in the harbour of Quebec.

The damage suffered by ships was generally of a minor nature, although occasionally it was quite heavy. As seen under *Shipping Casualties* below, damage to harbour installations was very minor in the aggregate.

The following is a detailed analysis of shipping casualties, accidents and incidents while berthing, unberthing or anchoring in the harbour of Quebec during 1964, involving the pilots of both Quebec and Montreal Districts:

I. MAJOR CASUALTIES (with or without loss of life):

—nil

II. MINOR CASUALTIES (without loss of life):

(a) *Minor strandings*

nil

(b) *Minor damage to ship*

(i) Striking pier:

1. April 14 (Montreal Pilot)—*Willowbranch*, Wolfe's Cove, damage not stated; cause: Master's error.
2. April 29 (Quebec Pilot)—*Nipigon Bay*, Princess Louise Basin Section 18, damage to rudder; cause: underwater obstruction.
3. May 2 (Quebec Pilot)—*Palamedes*, Wharf 26, damage to one plate; cause: *pilot error*, manoeuvring.
4. July 3 (Quebec Pilot)—*Wabana*, Inner Basin Berth 1-2, damage to two shellplates; cause: tug, manoeuvring.
5. August 3 (Quebec Pilot)—*Baskerville*, Sheds 25-26, damage to two plates, one bulkhead; cause: tug error, manoeuvring.
6. August 19 (Quebec Pilot)—*Rapallo*, Shed 27, damage to bulwarks; cause: no fenders, manoeuvring.

(ii) Striking vessel berthing or unberthing:

1. July 2 (Montreal Pilot)—*Imperial Halifax* touched *Saguenay* drydocking, damage not mentioned; cause: *pilot error*, manoeuvring.

(iii) Striking vessel anchoring:

— nil

(iv) Others:

1. July 12 (Montreal Pilot)—*Sea Transport*, lost anchor; cause: cable parted.
2. November 3 (Montreal Pilot)—*Clement* struck Princess Louise Basin bridge, damage not stated; cause: mechanical failure, wrong engine movement.

III. ACCIDENTS (without damage to ships):

(a) *Damage to pier*

1. July 16 (Montreal Pilot)—*Elmbranch*, damage to beams of shed; cause: *pilot error*, manoeuvring.

(b) *Damage to buoys*

— nil

(c) *Others*

— nil

IV. INCIDENTS (without any damage whatsoever):

(a) *Striking pier*

1. August 21 (Quebec Pilot)—*Tanais*, Lauzon drydock, damage not stated; cause: no tugs available, manoeuvring, stern pushed on corner entering.
2. December 21 (Quebec Pilot)—*Hornero*, Shed 18-26 to 25, damage not stated; cause: ice conditions.

(b) *Striking vessel at pier*

1. May 4 (Quebec Pilot)—*Mormacisle* struck *La Hacienda*, Shed 25, damage not stated; cause: wind and tug, manoeuvring.

(c) *Striking vessel at anchorage*

— nil

(d) *Striking buoys*

— nil

(e) *Others*

1. April 14 (Quebec Pilot)—*Phillip R. Clarke*. Quebec anchorage, wire around anchor, heaved cable; cause: anchoring in fog.

(d) *Recommendation Received*

Partly to solve this problem and also to improve the Quebec pilots' working conditions, the Federation of Pilots, speaking for the Quebec pilots only, recommended the creation of a group of berthing pilots to relieve the river pilots of the task of berthing upbound vessels. The recommendation does not cover the case of vessels leaving Quebec downbound because the river pilot should then be rested and prepared for his assignment (p. 88).

This recommendation deals only with the small part of the problem because, from the evidence, it appears that the Quebec District pilots nearly always berth their ships on arrival unless the manoeuvre is impracticable. Nor does the recommendation, although it comes from the Pilots' Federation, cover the case of Montreal pilots who come to Quebec from Trois-Rivières. Pilot Rousseau explained that since the trip from Trois-Rivières is shorter and radio communications are better (and greatly improved since then) the Montreal (river) pilots have not the same need for relief.



There was no rebuttal from the Montreal pilots nor did they make a similar recommendation, no doubt being satisfied with the existing situation. The Pilotage Authority has reported, however, that when the operating procedures of the Montreal pilots were investigated they used the same argument as the Quebec pilots, i.e., a pilot who has just completed a long and tiring trip does not feel sufficiently rested to perform the difficult manoeuvre of berthing vessels under adverse conditions.

The proposal is not new. For instance, it was one of the questions discussed at the January 3, 1961, winter meeting of representatives of the shipping interests, the pilots and the Pilotage Authority. The minutes of the meeting state (Appendix 61, Shipping Federation Brief, Ex. 726):

"5. The pilots recommended that a system of docking pilots be established for all vessels docking and undocking alongside in the Harbour of Quebec. They asserted that by assigning one or more of their pilots to this duty and these men becoming familiar with their work less use would be made of the tugs so that an overall saving would be effected, notwithstanding the imposition of a new docking charge for this separate service."

A committee composed of pilot Rousseau, Captain Gendron and representatives from the Department of Transport and shipping was created to study the question.

A few days later, in his annual address to the pilots at the annual meeting in January 1961 (Ex. 683), the President of the Pilots' Corporation reported that they had raised the question with the Pilotage Authority, had suggested the creation of a study committee, and that the Pilotage Authority had agreed. In his next annual report, he stated that after the question had been thoroughly studied by the committee it appeared that the proposal would not be financially advantageous at that time since the system would require at least two or three pilots, but the dues they would earn from movages and berthing would provide them with an income below the average of the other pilots.

The question was raised again, but in a different way, a few weeks later at the next winter meeting which was held at Montreal February 26-27, 1962, when it was one of the points in the memorandum distributed in advance to prepare for the meeting. All the pilots were now requesting was the establishment of a berthing and unberthing charge in Quebec harbour instead of a berthing pilot system. The Quebec pilots were willing to berth at the end of the trip provided there was extra pay. No agreement was reached on this proposal nor on any of the points concerning tariff and pilots' remuneration.

On March 6, 1962, the Federation of Pilots intervened and wrote to the Minister and the Deputy Minister requesting that decisions be taken on all the questions in abeyance, including this point.

On March 14, Mr. Cumyn, Director, Marine Regulations, replied to the Federation (Ex. 761). With regard to this question he stated that the new charge requested was not justified because it would entail an actual increase in the rates, which was not warranted in view of the pilots' 1961 earnings of well over \$14,500.<sup>5</sup>

The question was not abandoned by the pilots and was one of the points discussed during the 1962 winter meetings and negotiations. However, when the Quebec pilots decided to go on strike because negotiations about all their recommendations and requests had reached a stalemate with the Authority, they decided not to press the less important requests (such as this) in the hope they could avoid the strike by limiting their demands to the most important issues. Later they decided to incorporate the original proposal in their brief to the Commission.

The reasons the pilots advanced in support are: to improve their working conditions, to provide better pilotage service and to increase efficiency and safety.

If a river pilot arrives at Quebec from Les Escoumins, he has piloted a distance of 123 miles and from the Saguenay River, some 160 miles. In addition to the length of the trip, there may have been bad weather and night piloting so that the pilot is tired just at the moment when he has to perform a delicate berthing manoeuvre requiring thorough up-to-the-minute knowledge of the wharves, tides and winds, since his procedure will be influenced by all these factors. It was pointed out that a pilot would not hesitate to berth if he had a good fast trip (by daylight for instance) and was not tired but, on the other hand, if after a long night trip and an early morning arrival he found difficult harbour conditions he might well decline to berth and recommend anchoring. The pilot would then rest while awaiting more favourable conditions. This would cause a delay of six to eight hours.

A pilot who specialized in berthing would give better service, thus saving the shipping interests both time and money, especially the extra costs caused by unexpected delays. The pilots noted that a pilot who berthed three or four ships a day would certainly be more expert than one who did only about one a week and, hence, there would be a saving in time and also, presumably, a saving in the cost of tugs because a rested specialist could perform with more confidence and less chance of an accident. Because of his extensive experience an expert berthing pilot would need tug assistance less often.

They advanced other arguments that have less value since the establishment of the Marine Traffic Control System (p. 180). Tugs were ordered by the pilot on board while still far away from Quebec; not knowing the prevailing weather conditions in the harbour, he was inclined to order

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<sup>5</sup> The 1963 average earnings, after pension deduction, were \$14,241.05 and the average "take-home pay" after meeting the pilots' Corporation expenses was \$14,163.96 (vide table p. 492).

more than might be necessary in order to be on the safe side. Furthermore, the pilot had no way of knowing the existing traffic conditions in the harbour nor the situation at the wharf where he was to berth. If there was enough space to manoeuvre, tugs might not be needed. The pilots said that a berthing pilot acquainted with the local situation would then order only the tugs he actually needed, if any, and could berth without the delays that would be encountered by a pilot who had to meet unexpected conditions at the last minute. In addition, from the safety point of view it would be advantageous to have this difficult manoeuvre carried out by a rested pilot.

The pilots added that such a system has proved its effectiveness in other important ports in the world; they referred to their experience during their visit to harbours such as Southampton, Rotterdam, Antwerp, Hamburg, Stockholm, New York, and the inner basins of London and Liverpool. In all these ports the river pilot is relieved by a berthing pilot when the ship reaches the harbour limits.

The upbound Quebec river pilot would have to be relieved somewhere down river and his workload would be less to that extent, but the pilots do not agree that the charge for river pilotage should be reduced by the amount of the berthing charge. The latter, however, would have to be substantial enough to provide the berthing pilot with adequate remuneration. They mentioned that in New York berthing pilot dues are included in the tug fees and, in fact, the berthing pilot is the tug Master.

It was recommended that the changeover of pilots should be effected in the Lauzon bend some distance upstream from the shipyards, in the vicinity of buoy 138B. The berthing pilot could board the ship from a tug, if a tug was being used; otherwise, a pilot vessel would be needed, with still another increase in the cost.

Mr. Maheux stated that during his term of office as Supervisor it was understood that a berthing pilot should be ordered if a pilot had had a tiring trip upbound from Les Escoumins but this happened so rarely that it was not worth mentioning. In these cases, vessels were either bound for the inner basin or for those berths where they had to wait for the right state of the tide. This would mean anchoring unless speed was decreased so as to arrive at the right time and thus avoid the necessity of anchoring and paying a moorage charge. He discussed the question with the various parties concerned and it was agreed that after fifteen hours of pilotage duties a pilot might ask to be replaced for berthing.

Pilot Koenig did not think the creation of a special group of berthing pilots at Quebec was an absolute necessity but he added that if the shipping interests were willing to pay the cost he would have little objection.

Pilot Gauthier, a Montreal (river) pilot, did not favour berthing pilots at Quebec since he believed the procedure followed at the time was adequate



and he saw no reason to change. He never had any trouble with a Master when he advised him to wait for the tide before berthing at Quebec and during the 28 years he was a pilot he never had any complaints from agents in this regard. He pointed out that in Quebec all wharves face the river or the basin while Montreal has finger piers. In addition, Quebec is subjected to tidal currents whereas Montreal has downstream currents only. Before the Montreal District was divided at Three Rivers, he piloted all the way up from Quebec to Montreal and berthed on arrival.

The shipping interests raised no objection to the system provided it meant no additional expense. They pointed out that at the time of the Commission's hearing the steamship business in Quebec was more or less depressed, e.g., the Cunard Line did not call at Quebec for various cargoes because of higher costs, and they believed that any increase in the cost of pilotage would mean additional hardship for the harbour of Quebec.

It was pointed out that the saving the pilots claimed the shipping interests would make if berthing pilots were used would not be true for every berthing but only in those cases where the river pilot would not have berthed the ship. Otherwise, it would cost the shipowners an additional berthing charge, not counting the pilot boat charge. Mr. Brodie pointed out that their company has about six or seven ships per week calling at Quebec, i.e., about 300 trips per year. Establishing berthing pilots for Quebec harbour at \$20 each (\$30 since 1965) would mean an additional \$6,000 (\$9,000 in 1965) per year (not counting the additional pilot vessel charges) for his company, and although there might be some savings in certain cases, he pointed out that these could not be considered the basis for a general rule.

Mr. Colquhoun did not favour the proposal because, if the pilots were able to berth ships in previous years, he could not understand why they were unable to provide the same service with modern aids to navigation, faster ships and better facilities.

From the Steamship Committee point of view the special pilot system was better than the present system and, in their opinion, this was primarily due to the fact that the special pilots became familiar with the ships of the company for which they worked.

Captain Norman E. Rees-Potter, Canada Marine Superintendent for Cunard Steamship Company, stated that his company would favour berthing pilots for Quebec harbour, both for vessels upbound and downbound on two conditions, i.e., there would not be any additional charge to shipowners and the service to ships would improve. In his opinion, the most important question was to avoid delays; in other words, the ability of a pilot to berth vessels on arrival at any state of tide and by day or by night under normal weather conditions without any costly delay at anchor waiting for favourable conditions. The berthing pilots, therefore, should be specially trained for that type of work and any ordinary tour de rôle pilot should not be given the

assignment just because it was his turn. He had no objection, however, to the specialized group being chosen from the tour de rôle pilots who would be available to perform river assignments when they were not employed berthing.

As for costs, Captain Rees-Potter was of the opinion that the pilotage charges, including river pilotage and berthing if a second pilot was employed, should cost the vessel no more, but the dues should be divided equitably between the two pilots. He would not object to paying the extra pilot boat charge because it is minimal.

He considered that berthing pilots should berth vessels at Quebec, both those upbound as well as those from Montreal, because the prime purpose is to avoid costly delays. From the safety angle, he was of the opinion it was reasonable to relieve Quebec river pilots after a trip from Les Escoumins that lasted longer than 7 to 10 hours, but for pilots downbound from Three Rivers it was not a question of safety (except in exceptional cases) and the proposal should apply to them only for the practical reason that these are the pilots who most often delay ships destined for Quebec.

#### (10) REVOLTS AGAINST PILOTAGE AUTHORITY

From 1960 to 1963 inclusive, relations between the pilots and the Pilotage Authority deteriorated to the point that in the fall of 1960 a strike was avoided by a last minute compromise, but in April 1962 the pilots went on strike for nine days.

These were not the first instances. Once, there was a strike by the special pilots against their employers' proposal to lower their unofficial bonus from \$12 to \$9. Instead of providing special service the pilots handled all vessels according to the roster. The strike was of short duration because the shipowners abandoned their proposal (p. 252). There was also a strike about 1930 over the refusal of the shipowners to employ a second pilot unofficially during the winter season and to remunerate him privately. This strike, which came at the end of the season, lasted two days and ended when the shipowners agreed to resume employing the second pilot and paying the unofficial remuneration (p. 439).

#### (11) THREATENED STRIKE IN 1960

The year 1960 was a year of many difficulties for the Quebec pilots. It was marked, first, by the election by the pilots of a new group of Directors who were determined to abolish the special pilot system and improve the pilots' working conditions; second, when the Seaway opened and the Quebec pilots realized that they were no longer as independent as before and as

detached from the problems of the other St. Lawrence Districts, they began to appreciate that many problems relating to the organization of pilotage were common to all Districts.

The change in the Board of Directors was the result of a kind of a revolt by the *tour de rôle* pilots against the special pilots who had been in power up to that time. The new group was elected after a thorough campaign (none of the former Directors was re-elected) (pp. 272 and ff.) and immediately began working eagerly to bring about the reforms they had been advocating. In some cases, they found the Pilotage Authority in agreement but not the shipping interests; on other points they met considerable opposition from both groups. The D.O.T.-inspired move of the pilot station from Father Point to Les Escoumins, which had been opposed by the former Board of Directors, met with the approval of the new Board and, therefore, was implemented without delay, as was the abolition of the special service pilot system which the *tour de rôle* pilots had requested for years (p. 251). However, there was disagreement about compensation for the loss of the unofficial remuneration paid the special pilots.

The climate was even more strained (a) when the Dominion Marine Association tried to obtain exemptions for Upper Lake vessels throughout the St. Lawrence, (b) by the unresolved question regarding the right of American pilots to pilot in Canadian waters after the Seaway opened, (c) when on March 22, 1960, the Shipping Federation of Canada Inc. asked the Minister to appoint a commission of inquiry to examine and revise the conditions of employment and remuneration of pilots on the Lower St. Lawrence and Seaway and (d) by a pamphlet published in May 1960 by the Shipping Federation (Shipping Federation Brief, Ex. 726, App. 49) followed by a press campaign against which the pilots felt obliged to defend themselves.

Furthermore, at that time, when a request by the pilots for an increase in strength from 75 to 77 was under study, the Pilotage Authority suggested a new system of freezing their strength at 75 and adjusting the workload by exemptions (pp. 228-230). The pilots did not agree with this proposal. The shipping interests were also exerting further pressure to be allowed to participate in the examination of pilots and the question of legalizing the practices which had developed with regard to winter assignments remained to be solved.

The pilots in other Districts were also experiencing difficulties of their own and the Federation of the St. Lawrence Pilots co-ordinated the efforts of the various groups in order to render them more effective.

As far as the Quebec pilots were concerned, however, the main point of contention was the failure on the part of the Authority to make good the promise to compensate them for the estimated \$65,000 loss incurred by the abolition of the special pilot system. When this practice was done away with in the Montreal District the previous season, the approximate amount paid by



shipowners in unofficial bonuses to the special pilots was replaced by appropriate tariff adjustments. It was taken for granted by the representative of the Pilotage Authority who dealt with the Quebec Pilots' Committee that the Quebec District would receive the same treatment. The Authority did, in fact, tell the pilots they would not lose any money as a result of the change and that there would be a tariff adjustment to compensate for their loss.

The \$65,000 compensation was first offered to the pilots by the Deputy Minister himself in a letter dated January 25, 1960 (Ex. 688). The letter first dealt with the proposed move of the pilotage station and the Deputy Minister added the following remarks on the special pilot system:

"At the same time, I would appreciate hearing the views of your Committee on the desirability or otherwise of continuing the present practice of permitting a line of regular traders to be served only by pilots of their choice. The practice of assigning so-called special pilots to certain ships was found undesirable in the Montreal District and, for this reason, was abolished in favour of a grading system with the piloting of larger vessels being restricted to pilots of the highest grade. At the same time, the tariff of dues in the By-laws was adjusted so as to compensate for the loss of income privately received by the special pilots.

This new system has worked well and the Pilotage Authority looks with favour upon its extension to your District."

With this promise the Board of Directors had little trouble obtaining the consent of most of the pilots and on February 12 the pilots' legal adviser conveyed to the Deputy Minister the agreement of the Pilots' Committee to replace the special pilot system by a grade system, pointing out that in the previous few weeks the representatives of the Department and of the Pilots' Association had worked out the details and that it looked as if an agreement had been reached on most aspects of the proposed grading system. He added:

"This agreement of the pilots' Committee to the proposed grading system is subject to the implementation of the suggestion made by the Department Officials that the tariff of dues in the bylaws would be adjusted so as to compensate for the loss of income privately received by special pilots." (Ex. 688, Annex to Bulletin, April 30, 1960).

The Department went so far as to send Captain D. R. Jones to meet the pilots in order to work out the necessary tariff arrangements. At this meeting which took place February 19, they came to an agreement except for a sum of approximately \$3,000 and on February 22, 1960, the pilots wrote to Captain Jones to confirm their conclusions.

To the pilots' surprise, they received a letter from the Deputy Minister, dated March 25, informing them that the Authority had no intention of granting the promised \$65,000 compensation because (a) the earnings of the individual pilots in the Quebec District in 1959 had increased substantially and it was believed this increase would be maintained in 1960, (b) at the same time the workload would be decreased by the shorter pilotage trip resulting from the relocation of the pilotage station, (c) it was believed that the earnings of the Quebec District pilots were substantially higher than those of the other St. Lawrence Districts and the contemplated increase would

further widen this considerable gap. All that the Authority would grant was a special bonus for the Grade A pilots that would yield an approximate annual revenue of \$15,000.

Despite the fact that this decision was a complete departure from the previous attitude and from the mutual agreement that had been reached with the pilots, the Pilotage Authority gave this unilateral decision immediate effect without respecting the agreed condition. On March 30, 1960, a telegram was received from the Director of Marine Regulations, Mr. Cumyn, informing the pilots that the Pilotage Authority had decided to abolish the special pilot system and to establish immediately the Grade pilot system with a surcharge of \$25 for Grade A ships, i.e., over 10,000 NRT.

On April 4, the Pilots' Committee, accompanied by their legal adviser, proceeded to Ottawa and met with the Minister of Transport, the Deputy Minister, Mr. Cumyn and Captain Slocombe to protest and to endeavour to have the Pilotage Authority implement its promises.

On April 6, the pilots wrote to the Minister pointing out:

- (a) if the requested increase in tariff was not granted there would be an average loss of \$1,000 per pilot, and in some cases, a loss of \$2,500;
- (b) about half the pilots would be affected, since they were special pilots;
- (c) they had co-operated with the Authority in abolishing the old system but they deplored the fact that it was being done at their expense and contrary to what was promised.

On April 12, the Minister wrote back referring to the meeting he had with them on April 4. Re indemnity, he pointed out that the creation of Class A ships would mean that companies with ships falling into this category, which did not pay any bonuses because they did not employ special pilots in the past, would be obliged to pay the extra charge under this classification. He added that the discrepancy between their earnings and those of the pilots in the Montreal and Kingston Districts did not warrant the requested increase and he argued that what had been done in Montreal was not really a precedent because at that time a tariff increase was justified in Montreal but not in Quebec.

The actual situation, however, was somewhat different to that described by the Minister. What the pilots sought was not an increase but a tariff adjustment to make official the revenues that the special pilots had received unofficially. As the Pilotage Authority was well aware, very few shipping companies would be adversely affected by the Grade A classification because, as Mr. Cumyn had pointed out at the Advisory Committee meeting on October 21, 1959, a very large group of ships enjoyed the privilege of having special pilots. Under the new system the companies would have only their

larger ships subjected to the Grade A surcharge while under the previous system all their ships, regardless of size, were handled by their special pilots and the special bonuses were paid in each case. In fact, the new charges would actually save the shipowners approximately \$50,000 a year.

All the pilots were kept informed of the progress of the matter by bulletins which their Corporation issued. The bulletin dated April 26, 1960, informed the pilots that the Minister had rejected their demand, that he had ignored his Deputy Minister's promise and that the result was an average loss of \$1,000 per pilot. The pilots were informed that their Board of Directors considered this decision unacceptable, that they intended to continue negotiations and that, if necessary, a general meeting of all the Corporation members would be convened.

The change of attitude of the Pilotage Authority had occurred when the concurrence of the Shipping Federation was sought. It objected most strongly to any increase, arguing that the loss for special pilots would be compensated as follows:

- (a) partly by the surcharge on Class A ships;
- (b) by the increase in tonnage ceiling in the calculation of dues;
- (c) by the expected increase in the tonnage of vessels;
- (d) by the reduction in workload as a result of moving the pilotage station.

It is to be noted, however, that the increase in tonnage ceiling from 7,500 to 15,000 tons was not agreed to before October 13, 1960, and after much negotiation it became effective only from January 1, 1961.

It was at this moment that the Shipping Federation's pamphlet was published. It was the first statement of this kind that the Shipping Federation had ever published on the subject of pilots on the St. Lawrence (Ex. 726, Vol. II, Appendix 49). This document (whose wide distribution included shipmasters, Members of Parliament and newspapers) endeavoured to prove that the pilots received more than adequate remuneration for the work they did. Severe criticism was also levelled at the Pilotage Authority for failing to act as such and it was claimed that the actual authority was in the hands of the pilots themselves. The Quebec pilots felt that the purpose of the pamphlet was to arouse public opinion against them and decided to take counter-action. The Board of Directors sent a copy of the pamphlet to all the pilots and through the Federation concerted its efforts with those of the pilots in the other Districts.

On June 2, 1960, the necessary amendments to the By-law were approved by the Governor in Council to abolish the special pilot system, to replace it by the Grade system and to establish a \$25 surcharge for Class A ships.



Negotiations held after that date were carried on by the Pilots' Federation. On June 7, 1960, the Pilots' Federation presented a brief to the Minister (Ex. 754) covering five problems, three of which concerned the Quebec District:

- (a) foreign pilots working in Canadian waters;
- (b) representation of shipping interests on the Board of Examiners;
- (c) the failure of the Authority to adjust the financial loss incurred by the change from the special pilot system to the new system of grading in the Quebec District;
- (d) insufficient pilotage dues in Montreal harbour;
- (e) inefficiency of the Authority, i.e., delays in collecting dues and delays in settling problems.

The first question related to pilotage by American pilots between Montreal and St. Regis and did not concern the Quebec pilots directly.

Although the question of the representation of the shipping interests on the Board of Examiners of pilots was common to all three Districts, the second problem particularly concerned the Quebec District at that time because the pilots were working out a new set of regulations for the recruiting and training of apprentices. In fact, as seen before, (pp. 248 and ff.) the system was extensively changed by an amendment which came into force March 23, 1961. In their brief the pilots opposed a shipping representative on the Board of Examiners for the following reasons:

- (a) there had never been any such representation in the past, the system had worked well and the pilots had shown a high level of professional responsibility;
- (b) the examination is very specialized and technical; its principal aim is to test local knowledge, a subject which only the pilots themselves are competent to discuss;
- (c) under the proposed new system the Board of Examiners have to examine the candidates and the apprentices on five occasions at different stages of their training and shipowners would not be capable of passing judgment on the quality of their professional training and technical competence;
- (d) the shipping interests are not represented on the Board of Examiners appointed by D.O.T. to examine Masters and other marine officers;
- (e) the mere fact that the shipping interests pay for the pilot's services does not give them any more right to control than they have when they pay for the services of other professional men;
- (f) the interests of the public are protected by the presence of D.O.T. representatives on the Board.

As for the third question, the brief summed up the situation already described above and the fourth question concerned Montreal alone.

With regard to delays in collecting pilotage dues (problem (e)) the pilots pointed out that at the end of April 1960 arrears amounted to more than \$30,000. These arrears were detrimental to the pilots because they were deprived of their earnings for a long period of time and, what was worse, delay made collection very doubtful, e.g., one shipping company which was allowed to accumulate arrears up to \$11,500 subsequently went bankrupt. They charged that the Department must be held responsible for this loss for not having observed the requirements of the Canada Shipping Act in good time.

Since the Authority appeared to be doing little to solve the problems outlined in the brief and in view of the publicity given by the Shipping Federation to their pamphlet, which the pilots felt was based on erroneous statistics, the Pilots' Federation, in addition to using the press to inform the public, decided to enlist the aid of various Members of Parliament.

In August, the Federation's legal adviser met with Department officials to discuss the problems raised in the brief.

When no progress was made, the President of the Federation wrote a letter of protest, dated September 2, 1960, to the Minister summing up the problems involved and pointing out that all the efforts they had made had been in vain and that, therefore, "in the hope of stimulating action, the Federation of the St. Lawrence River Pilots has met with a number of Members of Parliament and has handed them a brief on the matters mentioned above", a copy of which was annexed. The letter concluded with this threat (Ex. 756):

"Since none of the above requests seems to have received any satisfactory consideration by your Department, the Federation feels that it is its duty to call, in the near future, a general assembly of its members, in order to make to them a full report on the present situation and consider what further steps should be taken in that regard."

On the previous day, September 1, the Federation's legal adviser had gone alone to see Captain Matheson, of the Shipping Federation, and had handed him a copy of the brief which the Pilots' Federation had given to the Members of Parliament (Ex. 754).

On September 9, the Minister replied and reviewed the various problems:

(a) With regard to the representation of shipowners

"... It is our feeling, however, that in view of the heavy financial interest of the shipowners in the safe operation of the pilotage services it is only fair to give them some form of representation on the examining board.

... consideration must also be given to the shipping industry which is responsible for the creation of the pilotage traffic. Provided the pilot members of the examining boards have a majority, it would seem that the interests of the pilots would be adequately protected ..."

- (b) Regarding compensation for the Quebec pilots, he repeated what he had said to pilot Rousseau in his letter dated March 25, 1960, that the income in the Quebec District was, at that time, substantially higher than in the other St. Lawrence Districts and that for this reason an amendment to the tariff embodying an increase of \$65,000 would be difficult to justify; that, in fact, since that time the pilots' income in the Quebec District had again risen substantially and, therefore, they should be satisfied with the \$15,000 additional revenue allocated to the Grade A pilots and with the general increase in earnings that they were enjoying.
- (c) With regard to delays in collecting dues, he mentioned that the outstanding amounts were very small taking into consideration the total gross earnings of the District. He pointed out, however, that far more pressure was being exerted and this was expected to remedy the situation.
- (d) The problem of a special tariff for winter navigation had not been neglected.

In addition, the letter dealt with illegal piloting by American pilots in the Cornwall District and the question of rates for Montreal harbour.

In a reply dated September 14, 1960, the President of the Federation protested again and disagreed with the decisions taken. He concluded:

"For all these reasons, the Federation wished to express its regrets that you have not found appropriate to remedy what we consider just and reasonable grievances.

Consequently, I must advise you that a general assembly of our members will be called at an early date, for the purpose of deciding whatever steps are required in the circumstances."

On October 4, the Minister wrote to the President of the Federation, acknowledging his previous letter "concerning the questions apparently at issue between the St. Lawrence pilots and the pilotage authority". He informed him that statistics were then available for the 1960 season up to the end of August, which would give a firm basis on which to base expectations for the full season, and he stated that he had asked his officials to convene a meeting of those concerned within the next few days at which any misunderstandings would be clarified (Ex. 756).

At the meeting held in Montreal, October 8, the Department's representatives were Mr. Alan Cumyn, Captain Jones and Captain Gendron. The President of the Pilots' Federation stated that no concrete result was achieved; the situation was more confused after than before; American pilots were regularly proceeding as far as Montreal and it was learned that they intended to seek permission to pilot down to Father Point; Bill C-80 was coming up before the House of Commons and a similar Bill was being presented to the American Congress; representatives of American unions



were exercising pressure on the Government to have pilotage left free on the St. Lawrence for American pilots. At that meeting the pilots gathered the impression that the Department was accepting the situation.

During some of the negotiations prior to this meeting a measure of agreement was reached about winter pilotage. On October 8, Mr. Cumyn sent a telegram to the President of the Federation which stated that this agreement would be seriously influenced by any action on the part of the pilots to delay or stop ships (Ex. 756).

The Federation then convened a special meeting of the delegate members at Three Rivers on October 10. The situation was reviewed, it was decided to convene a general meeting of all pilots of the St. Lawrence River for Saturday, October 15, at Three Rivers and a telegram was sent to the Minister to inform him of this decision.

At that time, a new Minister of Transport, Mr. Léon Balcer, was appointed and the new Minister requested the pilots to meet him. The meeting was held in the Minister's office in Ottawa, October 12, between 4:30 and 7:00 p.m. The Minister's reaction was favourable and the main difficulty he wished to solve was American pilots operating illegally on the St. Lawrence. A further meeting was held the following day, agreement was reached and the document which confirmed the Department's concurrence was signed by the Minister (Ex. 756). Apart from the question of American pilots, it was agreed that the District By-laws would be amended to provide for the compulsory use of two pilots between December 1 and April 8, with the second pilot being paid full rate up to a limit of \$100. With regard to compensation in Quebec, it was agreed that the By-law would be revised to provide an increase in the maximum tonnage charge from 7,500 tons to 15,000 tons effective January 1, 1961. It was further agreed that shipping representatives would not be included in the Board of Examiners. Charges in the harbour of Montreal were to be studied further. This agreement was later confirmed by a letter from the Minister, dated October 18, 1960 (Ex. 756). On October 13, the Department issued a press release outlining that a settlement had been reached.

All these negotiations were carried out directly with the Minister and the shipping interests did not participate.

The pilots feel that this was a compromise because they did not obtain all they asked for but they concede that it was a satisfactory solution in view of the gravity of the situation and agree the strike was thereby avoided.

As far as Quebec was concerned, there was little progress toward settling the winter pilotage question except that the unofficial practice which had existed for years was made legal. The Board of Examiners retained the *status quo*. However, on the main issue, complete compensation for the \$65,000 loss was not granted as had been promised. The Quebec pilots compromised

on this point in order to make their contribution toward a settlement of the strike. They agreed that if the ceiling on the maximum tonnage charge was increased to 15,000 tons they would drop their demand for full compensation.

In his address to the general meeting on January 10, 1962 (Ex. 683) the Corporation President stated that the additional earnings obtained in 1961 by the various tariff modifications of 1960 had, in fact, amounted to approximately the \$65,000 indemnity they were seeking. He gave the following figures:

Winter tariff .....	\$29,274.94
Class A ships .....	13,660.00
Increase in the maximum tonnage charge	
7,500 to 15,000 tons .....	21,069.75
Total .....	<u>\$64,004.70</u>

The last item is not segregated in the Pilotage Authority's financial statement, Exhibit 534, but the other two are approximately correct and it is quite possible that the difference was due to the fact that different financial years were used to compile the financial statements. Winter tariff, however, had nothing to do with the \$64,000 compensation because prior to 1960 the pilots were, in fact, receiving winter tariff although it was unofficial. The statement showed, however, that in 1961 the two new items, Class A overcharge and tonnage increase, brought, in round figures, \$45,000 in new revenue.

Thus the strike was averted. It appears, however, that the pilots' rank and file were not all in favour of the strike. On October 13, eighteen pilots sent a telegram to the President of the Pilots' Federation (Ex. 593) urging the postponement of the strike for three reasons:

- (a) failure on the part of the Corporation to consult every member;
- (b) the mere statement of a Departmental officer about proposed exemptions for Canadian and American lakers did not seem serious enough to warrant a strike;
- (c) the new Minister of Transport had not yet had time to familiarize himself with the problem and take a position.

Pilot Barras, one of the pilots who signed the telegram, stated that the decision to go on strike was taken by the delegate members at the Federation level and that the individual pilots had not been summoned for a vote on whether to strike or not.

Pilot Jean-Louis Latulippe was also against the strike. He was a member of both the Association and the Corporation and at no time were they consulted about the advisability of going on strike. As far as he understood, the proposed stoppage of work was to claim \$65,000 and he was against resorting to measures of that nature for such a purpose. One Director visited

him at his residence and tried to convince him but to no avail. He was one of those who signed the telegram and he stated that they could have obtained more signatures but they were unable to contact all the pilots for lack of time.

After the Director visited him he wrote the Corporation a letter dated October 4, 1960, about the proposed strike, and explained his reasons for not sharing their opinion (Ex. 641). He had noticed in bulletin No. 6 that the situation was deteriorating and that the strike was developing. He thought this action was inopportune because it indicated a lack of maturity and was impulsive. He suggested writing to the pilots to ask their opinion and predicted their answer would be "no".

He was not threatened and although some fellow pilots intimated that "tough men could be used to subdue the scabs" he did not take them seriously. However, he was aware that when tempers are on edge disagreeable things may happen unexpectedly.

What he feared most was that the Department would eventually punish those who refused to go on strike. He had gathered the impression that the Department was not displeased about what was happening and that, therefore, it would not support those who were against the strike if they were prepared to work. He felt this way because through the strike the Department could do indirectly what it intended to accomplish by Bill S-3. In other words, he was afraid that the shipping interests and the Department of Transport were plotting against the pilots to eliminate the obligation to pay pilotage dues on the St. Lawrence.

Captain Slocombe stated in reply that this was not the case and that the Departmental officials were not looking for trouble.

Pilot Latulippe added that the strike was averted but that the confusion at the department of Transport level was increasing all the time. He himself had been a Director for two years, during which time he had to deal with the Department's representatives, and he had not been favourable impressed.

#### COMMENTS

The sequence of events in 1960 is a typical example of the failure of the Pilotage Authority to act as such, of administration by compromise, and of the detrimental consequences of such surrender of responsibility.

In this case, the Pilotage Authority had originally taken a stand which it considered just and reasonable (as in fact it was) but later reversed and subsequently modified its decision, yielding first to the opposition of the shipping interests and then to the threat of a strike by the frustrated pilots.

The real reason for the reversal of the initial decision was that the Pilotage Authority came to share the shipping interests' opinion that the official and unofficial earnings of the Quebec pilots made their aggregate individual remuneration unreasonably high in comparison with other Districts.



By refusing to implement its promise to reimburse the Quebec pilots for the loss of their unofficial special pilot earnings the Authority achieved indirectly a substantial reduction in their remuneration.

In 1960, the pilots had shown the utmost co-operation with the Pilotage Authority and it was then able to accomplish many of the reforms which had been vainly attempted during the previous pilots' organization.

However, with broken promises of this sort, especially when they are made by the Pilotage Authority (subsec. 2(69) C.S.A.), decisions that are only tentative and never final and a tendency to yield to pressure, it is not surprising that the pilots felt aggrieved and lost confidence in their Pilotage Authority. It is considered that such a situation would be effectively corrected if the regulation-making method proposed in the Commission's General Recommendation No. 19 is implemented.

## (12) THE 1962 STRIKE

Although the 1962 strike affected the pilots in all the St. Lawrence Districts, it was, in fact, carried out by the Montreal and Quebec pilots only, and principally those in the Quebec District because it was the beginning of the navigation season when the Seaway was not yet open. Most of the ships on the St. Lawrence at that time were upbound and very few had reached the Montreal District.

As far as the Quebec pilots were concerned, the point at issue was the implementation by the Pilotage Authority of a new policy under which the pilots would share, to a certain extent, in the operating expenses of the District.

Prior to 1905, the District was self-supporting and all operating expenses were paid by the Pilots' Corporation which administered the District under the supervision of the Pilotage Authority. This explains why sec. 328 of the present Canada Shipping Act and corresponding sections in previous Acts exclude the Pilotage District of Quebec when the powers of the Pilotage Authority to pay operating expenses out of pilotage funds are defined (pp. 29 and ff.).

In 1905, the Minister of Marine became Pilotage Authority replacing the public Corporations that had exercised these powers for 100 years. The Minister decided to move the boarding station from Bic to Father Point, to take over from the pilots the pilot boat service and to replace by steam boats the pilots' own schooners that they had used up to that time, all at the expense of the Department of Marine. These steps were agreed to in writing in March 1906 (pp. 49 and ff.). Later on, the 1915 Act and other legislation deprived the Pilots' Corporation of all their remaining administrative powers and these were eventually assumed by the Minister with the Department of Marine paying the expenses. In 1934, the pilots objected to the withdrawal of

the exception contained in the section of the 1934 C.S.A. which corresponds to the present sec. 328 and, so far, this exception has been retained. In other words, at no time since 1805 did the Pilotage Authority for the District of Quebec have the power, with or without the approval of the Governor in Council, to pay the operating expenses of the District, or any part thereof, out of pilotage dues. When these expenses were incurred by the pilots, the pilots paid them; when they were incurred by the Minister as such or as Pilotage Authority after 1905 and 1936, they were paid out of public funds by the Department of Marine and its successors, the Department of Marine and Fisheries and the Department of Transport.

Contrary to the procedure followed later in the other Districts, the expenditure of public funds for the District of Quebec was never covered by Order in Council and since 1905 authorization has always been by an annual parliamentary appropriation (p. 16).

The pilots' earnings were very low during the depression, during the 1939-45 war and the post war years, but later their income mounted steadily because their workload increased as traffic grew and larger ships meant higher dues because of the way pilotage voyage charges were computed. For some years prior to 1962, both the shipping interests and the Department of Transport felt that the pilots' income was too high and out of proportion to the value of the services rendered. The shipping interests' resistance to requests for increases in dues stiffened and various proposals were made to limit the pilots' income, e.g., making them Civil Servants, fixing a ceiling on their income or using the target income as a basis for negotiating tariff. At the beginning of 1962, relations were so tense that they had almost reached a deadlock in their negotiations and the shipowners refused to discuss tariff items with the pilots.

At that critical moment the Treasury Board while examining the Department of Transport expenditures observed that in many Districts where the pilots' earnings were very high, Quebec included, the Government should cease to subsidize pilotage. In other words, the Treasury Board request that these Districts be made self-supporting again, wherever possible, meant that District and service operational expenses would be paid out of pilotage dues.

The series of events that was to culminate in a strike began with the receipt of a letter written by the Deputy Minister to the Pilots' Corporation on September 15, 1961 (Ex. 697) conveying the Treasury Board suggestion that the pilots should contribute toward administrative expenses when their earnings were high enough. The Deputy Minister informed the Corporation that this item would be on the agenda for the regular winter meetings.

On September 26, 1961, the Quebec Corporation acknowledged receipt of the Deputy Minister's letter and asked for more details.

On October 13, 1961, the Superintendent of Pilotage, Captain D. R. Jones, wrote back informing them that all details were not available but that the Department expected to be in a position to discuss the question at the winter meetings.

In view of the importance of the question the Quebec Corporation informed the Pilots' Federation of the problem and of the situation by furnishing a copy of the previous correspondence.

On February 20, 1962, the Minister of Transport, the Hon. Léon Balcer, informed the pilots in a long letter that his Department was considering how to implement the Treasury Board recommendation during the 1962 season, and suggested that the contribution of the Quebec pilots towards operating expenses should be  $4\frac{1}{2}\%$  of their earnings. He pointed out that in 1961 the income of a Quebec pilot was \$14,762 which would not stand comparison with the income in other Districts nor with other comparable services in the Quebec region. He pointed out that by paying the operating expenses of the District the Department was in fact granting an indirect subsidy to the pilots and that this contribution from public funds amounted to \$125,000 yearly.<sup>6</sup> The Minister said this situation would cause criticism if it became public knowledge. A contribution by the pilots of  $4\frac{1}{2}\%$  of their revenue would cover half the operating costs. He added, however, that this was not a final decision and that he wanted the pilots to study the problem and give him their suggestions. While he did not want to take any arbitrary decision a problem existed and a solution had to be found. He also wrote at some length about the new policy of establishing a target income rather than negotiating on various items of the tariff and indicated that Departmental officers would discuss the matter with the pilots in the near future (Ex. 697).

While the decision of the Pilotage Authority that the Quebec pilots would participate in the payment of operating expenses was final, the amount of the contribution remained to be determined. The  $4\frac{1}{2}\%$  which the Minister mentioned was not definite but was merely a suggestion that had to be settled by negotiation between the Shipping Federation and the pilots. This figure had been arrived at by calculating the amount by which the individual pilot's income exceeded \$14,000 which at that time was considered a reasonable income for the Quebec pilots in view of their workload. The calculation was not accurate because, in fact, the surplus of \$762 per pilot amounted to 5.16%. The actual amount of what constituted a reasonable income was to be the main object of negotiations and it was realized that quite possibly the shipowners would consider \$14,000 too high and the pilots would think it too low.

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<sup>6</sup> In fact, pilot boat operations in the Quebec District showed a deficit of \$148,000 in 1961 and other administrative costs amounted to \$122,000, making a total operating expense of \$270,000 which was paid for out of public funds. The situation was much improved in later years when the pilot vessels *Citadelle* and *Abraham Martin*—both expensive to operate—were replaced by *Pilot Boats Nos. 9 and 10*, (p. 419; Part I, pp. 633 and 634 and 668-9).



The Minister's letter was received by the President of the Quebec Corporation while he was attending the annual meeting of the Canadian Merchant Service Guild being held in Montreal. He communicated the contents to the assembly. The pilots heard that similar proposals had been made to the Montreal District and the Saint John District and that for the latter the proposed deduction was 25%. The pilots, therefore, were quite disturbed and, since the deduction was a major problem which concerned the pilots of all Districts, the other subjects under discussion became minor.

At the Guild meeting it was decided to send to Ottawa a delegation made up of representatives of all the Pilotage Districts in Canada under the joint patronage of the Guild and the Pilots' Federation.

At the Federation Board meeting on February 24 it was decided that the complete Board would accompany their legal adviser to Ottawa to join the Canadian Merchant Service Guild in a protest against the proposal. From that time on negotiations were carried out by the Pilots' Federation and the problems of the Quebec District became only a few among many.

The joint delegation met with the Minister of Transport on February 27. He promised to study the matter further before implementing the proposal and it was agreed that both the Guild and the Pilots' Federation would submit a written memorandum on the subject (Ex. 698).

Winter meetings were held in Montreal February 26 and 27. Each Corporation sent representatives as did the shipowners. Officials of the Department of Transport and one observer from the Pilots' Federation were also present. The meeting became deadlocked when the pilots refused to discuss target income and the shipowners refused to discuss tariff items with the pilots.

On March 6, the legal adviser of the Pilots' Federation wrote to the Minister deploring the fact that at the meetings the representative of the Department of Transport joined with the shipping interests in adopting a negative and arbitrary attitude toward all their main proposals, even to the extent of refusing to consider them until the pilots agreed to accept a system of fixed salaries. He termed their attitude blackmail and deplored the pre-meeting agreements reached between the Pilotage Authority and the shipping interests before the pilots had a chance to speak. He requested that instructions be given to the officials of the Department of Transport to study the pilots' proposals on their merits and asked for new discussions carried out objectively and in good faith.

On March 7, 1962, the Federation of Pilots wrote through its legal adviser to the Minister informing him that they supported the representations made by the Guild against the proposal. It was pointed out that to implement the suggestion would create more problems than it would settle and that the basic principle was wrong because the subsidy favoured the shipowners rather than the pilots. They questioned the validity of the Department of Transport's

quoted figures on pilots' income and added that as far as the shipping interests were concerned, the cost of pilotage had decreased; they reminded the Minister about their status as "free contractors" and pointed out that implementing the proposal would lower professional standards and diminish the quality of service.

There were no further developments until the annual convention of the Federation which took place March 14, 15 and 16 when the events of the winter were discussed. On March 14, a reply to the Federation's letter of March 6 was received from the Director of Marine Regulations. In his letter Mr. Cumyn dealt with all the proposals the pilots submitted in their brief at the winter meetings but on the whole the Department had not changed its attitude. On March 15, at the Federation's meeting of delegate members a resolution was passed authorizing their Board of Directors to take the necessary steps to persuade the Authority to change its views.

The situation was reviewed April 3 at a Federation Board of Directors meeting. The Corporation of the Mid-St. Lawrence Pilots informed the Federation then of their intention to stop working and the representatives of other Corporations who were on the Board of Directors stated they had similar plans. The pilots felt the situation was getting out of hand because they had made their proposals many months before, nothing had been settled and the only replies they had received were to the effect that their proposals were still being studied although they were then on the eve of the opening of navigation. The Federation agreed to support the Corporations if they decided to go on strike.

The President of the Quebec Corporation immediately called a special meeting (to be held at the Château Laurier hotel in Quebec) by a telegram addressed to all members:

"Every pilot not on duty convened by urgency to Special General Meeting Corporation and Association to consider stoppage of work under direction of Federation Stop meeting Chateau Laurier, Wednesday, 4th April 9:30 (signed) Board of Administration—Gaston Rousseau President."

Fifty-five pilots attended. The situation was reviewed and, in an effort to prevent a strike, the meeting voted in favour of abandoning their other requests provided the compulsory contribution to District expenses was abandoned by the Pilotage Authority. It was also unanimously agreed that failing this concession the pilots would not embark after midnight Friday, April 6. An additional nine members who were on station at the time of the meeting were in agreement as well. It was further resolved to support the Federation and the other group-members in their demands. All votes which were taken by a show of hands were unanimous and there were no abstentions. Neither pilot Barras nor pilot Koenig attended the meeting.

Further negotiations were carried out at the Federation level and, since no agreement was reached, a stoppage of work occurred April 6. This took the official form of holding two special general meetings.

This first meeting which was held at the office of the Corporation and of the Association at 71 St. Pierre St., Quebec, was convened by night letters dated April 4, 1962, addressed to all pilots (Ex. 717):

"Results negotiations unsatisfactory Stop No pilot to board vessels after 0001 April 6 Stop Special General Meeting 2:30 April 6 Corporation Office for report on negotiations. (Signed) Board of Administration Gaston Rousseau, President".

Forty-nine pilots, including pilot Maurice Koenig, attended. The meeting was given an up-to-date report about negotiations, it was resolved to continue their support for the Federation and the meeting adjourned until April 9 at 2:30 p.m.

When they reconvened April 9, 46 pilots attended. After the acting President stated that negotiations had not yet provided a settlement it was resolved unanimously that the Quebec Pilots' Corporation should maintain their support for the Federation and the meeting was adjourned until the following day at 2:30 p.m.

On April 10, 40 pilots attended. The meeting was informed about the state of negotiations. The same proposal of support was voted and the meeting was adjourned until April 12 at 2:30. They were informed that the President had reported by telephone that negotiations were progressing, that the Minister had found their requests acceptable, that pressure would be exerted on Members of Parliament and that the National Committee of the Guild was ready to join the Federation within 24 hours. The usual motion of support was voted and also a week's leave for the Corporation's President to be taken after conclusion of the negotiations; the meeting was adjourned until April 13 at 2:30.

On April 13, 44 pilots attended. The meeting was informed that the negotiation committee was to meet the Minister of Transport that same day and that the Saint John, N.B., and British Columbia pilots would stop working at midnight if no settlement was reached. Talks had been held with some Members of Parliament and a personal message had been sent by the President of the C.L.C. to the Minister of Transport to the effect that the members of his labour union supported the pilots in their negotiations. It was decided that some publicity should be arranged and the usual resolution of support was voted. The meeting then adjourned until the following day at 2:30.

On April 14, the meeting did not take place because the Federation's negotiation committee had succeeded in reaching an agreement with the Minister of Transport by which the pilots would board vessels at 6:00 a.m. that day. This they did.

Included in the strike settlement was an item regarding the Quebec District specifically to the effect that the Treasury Board proposal for the payment of part of the operational costs out of pilotage revenue was abandoned and the requested tariff changes would take effect as of April 15, 1962.



When it was decided to end the strike, the pilots were not informed by telegram but by telephone.

The main issue for the District of Quebec had been the proposed 4½% deduction that the Authority wanted to apply against the cost of the pilotage service, and until the final settlement of April 15 they did not consider the question settled at all as had been indicated by the Minister in his telegram, dated April 6, addressed to the Federation's legal adviser. Until then the Minister's proposal had been that no arbitrary decision would be taken and that the matter would have to be studied later (Ex. 715). Therefore, the pilots did not interpret this telegram as meaning that the proposal had been dropped. What they wanted from the Minister was confirmation that the deduction would not be imposed, i.e., a decision, and not a general statement, was what they considered important.

Although the various meetings that were held between April 4 and April 13 were joint meetings of the Corporation and the Association, the pilots who were not members of the Corporation did not attend but sent an observer to the first meeting.

Pilot Barras did not attend any of the general meetings because he was not in favour of this strike just as he had been against the proposed strike in 1960. He and other pilots of like mind discussed their position with their colleagues but no one offered to assist them, not even officers of the Department of Transport. They were not given any guarantee that they could travel freely and, since they felt that the Department did not want the strike to be interfered with, they did not think that they were in any position to oppose it.

Nor was pilot Maurice Koenig in favour of the strike. He stated that the Quebec pilots personally had nothing vital at stake but were mainly supporting their fellow pilots in Kingston and that was the reason why all the Quebec pilots were not prepared to strike. He was of the opinion that, if only the Quebec pilots had noted some friendly feeling in the Department of Transport, the strike would not have happened but the Department's attitude was simply negative while on the other hand the pilots had an "esprit de corps". In the circumstances he felt that it would be foolish for a few persons to take risks and he himself succeeded in dissuading two or three fellow pilots from working despite the strike. In his opinion, the Quebec pilots gained nothing from that strike.

Pilot Latulippe was in favour of the strike to settle once and for all the confusion that existed at the Department of Transport level. His experience had been that whenever there was a problem to be settled there would first be long delays and later the Department would not face the responsibility of making a decision and its officers took evasive action. He cited, for instance, his experience in 1958 and 1959 when he repeatedly asked for

apprentices and pilots, and always received the same answers to the effect that the matter was under consideration, was being studied, etc. He always met purely negative bureaucracy. In his opinion, the strike was the sole means left to remedy that situation.

As far as the local representative of the Authority, the Supervisor, was concerned, he was not informed either by the pilots or by his headquarters that there would be a stoppage of work. The Quebec pilots did not inform anyone and this was done by the Federation in a telegram to the Minister dated the afternoon of April 4.

However, the Supervisor heard about it unofficially and soon found out that there were no pilots available. He did not order any pilot to take an assignment and no charges for disobeying orders were laid against any pilot. The Supervisor took a passive attitude and when requests were made for pilots during the strike the Quebec office replied that no pilot was available at the station, that they believed there was a temporary stoppage of work by the pilots and that as soon as pilots were available they would be supplied. Some vessels, e.g., *S.S. Batory*, applied to have their request placed on record and to register the failure of the Authority to furnish a pilot so as to avoid liability for the compulsory payment of dues when they proceeded without a pilot.

The Supervisor's office sent no message to ships warning them that there were no pilots available nor advising them not to proceed without pilots. Two such telegrams were sent April 6 and April 8 (Ex. 769), but were despatched by the Quebec Pilots' Corporation in the name of the Federation. The first telegram was addressed to eight ships and the second to twenty-five, five of whom had been sent the first message. The local Supervisor was unaware that these telegrams had been sent.

Captain Slocombe stated that the money obtained from the 4½% deduction would not have been applied exclusively to the operational costs of the District of Quebec but towards the general administration of pilotage all over Canada. At the time the Minister wrote his letter in the fall of 1961, the pilot boat operations at Les Escoumins had showed a profit from the dues which the Pilotage Authority, at the request of the Department of Transport, had been charging ships for the use of pilot boats. When these dues were collected, they were remitted to the Department and placed in a general account and the surplus from one District was used to pay for the deficit in others, since this service was provided by the Department of Transport and not by the Pilotage Authority of each District.

The pilots denied that they ever had a strike fund, in fact they have no standing reserve of any kind (p. 485).

For the effect of the strike on shipping, see the analysis pp. 207-208.

COMMENTS

The strike was the predictable result of the atmosphere of tension, mistrust, misunderstanding and disagreement that had been developing for a number of years. The point had been reached where negotiations were no longer possible, and the pilots came to the conclusion that strike action was their only course to force an issue short of complete surrender to the *dicta* of the Shipping Federation and the Pilotage Authority.

The strike was scheduled to begin when it could do the least harm but its effects would spread if it were not settled quickly (the Seaway was still closed and little traffic could be expected on the St. Lawrence, especially above Quebec).

The only area where lack of pilots could cause substantial difficulty and inconvenience was the Quebec District and, when the events leading to the strike are studied, the most surprising conclusion is that the participation of the Quebec pilots resulted from an illegal and arbitrary decision on the part of the Pilotage Authority and could easily have been avoided.

The pilots of the Montreal, Cornwall and Kingston Districts were on strike against the Shipping Federation on account of its uncompromising stand on tariff amendments: the Shipping Federation refused to meet the pilots and negotiate with them unless they first agreed to accept its target income proposal. This the pilots declined to do.

By contrast, the Quebec pilots were on strike against their Pilotage Authority. The only issue for them was whether the Authority would abandon its arbitrary, illegal decision to enforce the Treasury Board recommendation in their District.

In a final attempt to avert the strike the Quebec pilots unanimously voted at a general meeting to abandon temporarily their other requests and to single out the expense-sharing proposal as the sole point of contention.

For the Quebec pilots, this question was not new but merely another episode in a long controversy.

The Pilotage Authority's decision was illegal for two reasons. First, the Act specifically provides by way of an exception contained in sec. 328 C.S.A. that the Quebec pilots may not be required to pay any District operating expenses (Part I, p. 111). Secondly, under the statutory legislation contained in Part VI C.S.A. it is not permissible to force the pilots of one District to contribute toward the payment of the operating deficits of other Districts, since each District is a separate, autonomous, self-accounting organization (Part I, C.5).

Furthermore, this was a most delicate issue in the District of Quebec where the pilots considered the indirect Crown subsidy consisting of the



payment of District operating expenses an acquired right resulting from the obligations the Minister had undertaken in their favour in March 1906 (vide p. 52).

As far as the District of Quebec was concerned, the Treasury Board recommendation could not be implemented without first amending the C.S.A., which was not contemplated at that time. Even the Quebec pilots could have been persuaded to give their consent in this sensitive matter provided the Pilotage Authority had not tried to force the issue in the tense atmosphere which then prevailed. The proposal was reasonable. In fact, it was later adopted with some modifications as to procedure as one of the recommendations made on their behalf to this Commission by the Pilots' Federation (p. 85). It is also one of the general recommendations of this Commission (vide Gen. Recs. 20 and 21, Part I, pp. 521 and ff.).

### (13) SHIPPING CASUALTIES

#### PREAMBLE

No sea route or shipping lane anywhere in the world is entirely free from casualties, the St. Lawrence River included.

The President of the Canadian Board of Marine Underwriters stated at a convention held in Rome, Italy, in 1964 (Ex.1466(r)):

"The waters of North-West Europe constitute the most dangerous area in the world... The next most dangerous area is the North-East section of North America which includes the St. Lawrence River below Montreal."

Accidents occur for a number of reasons, some totally unpredictable and unavoidable but others wholly or partially attributable to negligence or a correctable factor. The cause of any casualty as well as contributory factors, however small, must be determined so that remedial action can be taken.

During recent years there has been a series of spectacular accidents on the St. Lawrence, especially in the Quebec Pilotage District, but these are by no means the first of their kind.

When the early days of pilotage under the free enterprise system are studied, many accidents are seen to have occurred. Trinity House records for the period 1805-1846 show that pilots were found to blame in 193 cases of grounding and collision; it is, therefore, reasonable to assume that the total number of casualties was much greater (p. 33).

One possible reason for the radical change in the composition of the Pilotage Authority in 1905 (when the public corporation system was abolished and the Minister of Marine became responsible) was a series of shipping casualties for which public opinion blamed the pilots. When the Minister took over, one of his duties was to have all the pilots re-examined to ascertain their qualifications, including their knowledge of the charts of the

River and compass directions from Father Point to Quebec. Subsequent events seem to indicate that the pilots' qualifications were satisfactory and left little room for improvement because no licence was cancelled as a result of the re-examination and the requirements were not amended (p. 51).

In November, 1905, the *Quebec Chronicle-Telegraph* stated (Ex. 633):

"Pilotage on the St. Lawrence does not stand out as an exact science just now. Immense damage has been done to Canadian Shipping interests by the recent mishaps. The matter has become a scandal and an injury to the country. The recent instances bespeak over much familiarity with the shore and too little with the channel. The pilots are trying the overland route, and the Government is convinced that better pilots must be had."

The basic reason why the Government set up the Lindsay Commission in 1913 was a series of shipping casualties that culminated in 1912 in the stranding of three vessels, the *Bellona*, the *Gladstone* and the *Royal George*, the double stranding of the *Beothic* and the stranding of the *Manchester Importer* (p. 53).

There have been marine casualties in the Quebec Pilotage District every year and in other Districts as well. Some accidents are more spectacular than others and cause greater public reaction, but even a minor mishap has its importance.

Since safety of navigation is a matter of public interest, the Canada Shipping Act, as amended in 1969, authorizes the Governor in Council to make regulations respecting the reporting of shipping casualties by ships of any nationality when the casualty occurs in Canadian waters and by Canadian ships in any waters. Before, the provision was applicable only to Canadian and British vessels (sec. 553 C.S.A.). In addition, District By-laws make it an obligation for pilots whose ships are involved in a shipping casualty or an incident affecting the safety of navigation to file a separate report with their Pilotage Authority without delay. All these casualties are recorded and to varying extent are the subject of investigation by the Department of Transport. For the purpose of this Report, only those casualties and incidents in which a pilot was involved are considered.

Because of the statutory definition of the term "shipping casualty" (sec. 551 C.S.A.), minor occurrences are reported as shipping casualties and an indiscriminate use of such reports for statistical purposes conveys a false and exaggerated picture of the situation. For instance, in 1962, a number of ships without suffering any damage touched in the middle of the North Channel at Cap Gribane on a 25-foot patch which had built up through silting, whose existence was unknown even to the Ship Channel Branch of the Department of Transport. These repeated reports brought the desired result: the obstruction was removed. This is a commendable practice which should be encouraged. One obvious first step in that direction would be not to count them as shipping casualties.

All occurrences in the course of navigation, even *incidents* which happen when a ship is under way, are serious since safety of navigation is affected. The fact that a collision was avoided or that little or no damage resulted from a grounding is of little importance in itself. The circumstances of every such happening must be carefully ascertained and analyzed to establish the causes so that the appropriate remedial action may be taken. This is less important in casualties and accidents resulting from errors in shiphandling while berthing or unberthing since safety of navigation is affected to a much lesser degree. However, they indicate a want of skill on the part of the pilots which affect the efficiency of the service and should be corrected.

Appendix A is a table of the casualties, accidents and incidents reported as shipping casualties as the term is defined by sec. 551 C.S.A. for the period 1958-1967. It also contains a detailed analysis of the cases, their nature and causes, which occurred in 1963 and 1968. Reference is made to Part II, pp. 88-90, for the definition of the method of classification of so-called shipping casualties used in this Report.

The small number of casualties compared with the total number of assignments performed by pilots can not be taken as proof of their good record, efficiency and competency, since it appears that most of the casualties could easily have been prevented.

An analysis of the cause of these accidents or shipping casualties for which the pilot bore some blame must, for all practical purposes, be limited here to major disasters and other serious cases. This analysis together with a review of the disciplinary records has revealed a most distressing situation and, on the part of a few pilots, lack of professional responsibility and reliability against which the Pilotage Authority was powerless, or failed, to take effective action.

For the extent of the investigatory and remedial powers of the Pilotage Authority and of the Minister of Transport, reference is made to Part I, C. 9. This Commission's recommendations are Gen. Recs. 26 and 37.

#### (A) *Formal Inquiries*

Five of the major disasters between 1955 and 1967 were the subject of Courts of Formal Investigation (Part I, p. 409).<sup>7</sup> An analysis of these findings is quite revealing and shows a continuing state of affairs that must be corrected in the interest of safety.

(a) S.S. *John E.F. Misener*, grounding, November 6, 1959 (Ex. 1354)

On November 6, 1959, this vessel, upbound from Father Point to Quebec, went aground at Lark Reef on the east side of the entrance to the Saguenay River. Because of fog, visibility was poor and at times nil. The pilot

<sup>7</sup> For the summing up of the Formal Inquiry held on the grounding Nov. 13, 1968, of M.V. *Clara Clausen*, vide pp. 414 and ff.



intended to pass south of Red Islet but unknown to him the vessel went to the north and, believing that he was south of Red Islet, he set course accordingly, headed straight for the reef and grounded. The Court found that the primary cause of the accident was the pilot's failure when he set the original course to pass south of Red Islet to take adequate measures to counteract the northeasterly tidal set in that area at that stage of the tide. The result was that the ship was off course to the north but, on account of the poor visibility and other contributing errors, this passed unnoticed. The Court found that the pilot failed to make any use of shipborne navigational aids such as radio direction finder and echo sounder to ascertain his position and made improper and inefficient use of radar. Radar was used very sparingly and no effort was made to identify targets properly. The pilot was also at fault because when a buoy was sighted so close to the ship that they nearly collided with it, no effort was made to identify it, the pilot assuming that it was one of the buoys located south of Red Islet. The pilot was also to blame because he failed to reduce speed during these adverse circumstances but continued full ahead at about 12 knots.

The Hon. Mr. Justice A. I. Smith, who presided over the Court, had this to say about the use of aids to navigation:

"One of the most significant features of this casualty is that, although the vessel was fully equipped with navigational aids, no use was made of them save for radar and there was a failure to make proper and efficient use of it."

(b) Collision between S.S. *Tritonica* and S.S. *Roonagh Head*, July 20, 1963 (Ex. 1353) (vide Advisory Committee)

On July 20, 1963, these two vessels collided in the channel a few miles west of Coudres Island with the loss of the *Tritonica* and 33 of her crew. The *Tritonica* was upbound and the *Roonagh Head* downbound. The collision occurred in the south part of the North Channel which is rather wide there (vide p. 127). The vessels were navigating through extensive fog patches and visibility was about one mile at the time. Both vessels were navigating at full speed ahead until they sighted each other visually. On board the *Tritonica* radar was apparently not in use, but on board the *Roonagh Head* it was in operation and correct information was received. However, the observations were not plotted so that the speed and direction of the oncoming vessels were not ascertained exactly. At the time of the collision, the *Tritonica* was crossing the bow of the *Roonagh Head* and was struck on her port side.

The Court found that the cause of the accident was "failure on the part of both vessels to comply with the international Regulations for the Prevention of Collision at Sea and of those in charge of the ships respectively, to exercise the care and take the precautions required in the circumstances as a matter of ordinary prudence and good seamanship."

The Court blamed the *Tritonica*:

- (i) for excessive speed under the circumstances (violation of Rule 16), i.e., a speed of 15 knots over the ground which was maintained until the *Roonagh Head* was sighted visually at three ship's lengths;
- (ii) for failure to maintain a proper lookout, both radar and bridge, since the *Roonagh Head* was sighted visually only at the very last minute; either radar was defective or there was failure to make proper use of it;
- (iii) for failure to keep to the proper side of the channel which, in that area, is considered to be a narrow channel (violation of Rule 25) (in fact, at the time of the accident she was south of mid-channel); this Rule was imperative under the circumstances due to the speed of the ship and the limited visibility;
- (iv) for failure to sound fog signals in contravention of Rule 15, par. 2(e);
- (v) for taking the wrong decision when attempting to avoid the collision by going to port rather than going hard-a-starboard immediately upon sighting the *Roonagh Head*.

As for the *Roonagh Head*, the Court recorded these faults:

- (i) excessive speed under the circumstances; full speed ahead was maintained up to four minutes before the collision, despite the poor visibility and the knowledge that another vessel was closing;
- (ii) failure on the part of the pilot to recognize the risk of collision and consequently his failure to take adequate corrective measures; the danger of collision was realized only after the *Tritonica* was visually sighted; the fact that the bearing of the approaching vessel, when seen on the radar, did not change appreciably should have indicated to the pilot that a risk of collision existed and a reasonably competent and alert seaman would then have put the engines full speed astern and the wheel hard-a-starboard; instead, the pilot reduced to half speed with a slight alteration to starboard;
- (iii) failure to stop engines and navigate with caution when the ship's fog signal was answered by the *Tritonica* at a distance of about two miles;
- (iv) failure to sound fog signals regularly, as required by Rule 15.

The pilot of the *Tritonica* was lost with the ship. Although the *Roonagh Head's* pilot and officers of both vessels were held to blame for the accident, the Court did not deal with their licences or certificates, which was interpreted as an implicit finding that the fault of those over whom the Court had jurisdiction was not such as to warrant such action (Ex. 1466(e)). Hence, no further action, penal or otherwise, was taken against those involved.

The Hon. Mr. Justice A. I. Smith, who presided over the Court, suggested that corrective measures be taken with regard to the lack of adequate life-saving devices, since the evidence showed that life-boats were not available due to the list the ship developed. He recommended that the carrying of life-rafts be made compulsory. He also noted that many complaints were made about the absence of effective radio communications with the Quebec station and, finally, he suggested that steps be taken to oblige ships such as the *Tritonica* sailing upriver from Seven Islands fully loaded to close their hatches because, in this case, the open hatches accelerated the sinking and may have contributed to the large loss of life.

These three recommendations were studied by the Department of Transport and were implemented in part (Ex. 1466(e)):

- (i) The Life Saving Equipment Regulations were amended to require a bulk carrier of over 300 feet to carry inflatable life-rafts in addition to other life-saving equipment (P.C. 1964-1490 dated September 23, 1964).
- (ii) The radio communication problem has been resolved (p. 180).
- (iii) "Since there is virtually no risk of these large vessels shipping seas in the River St. Lawrence, the only purpose of undertaking the extensive labour of closing and opening the hatches would be to help to slow down a sinking in case of collision. It was considered that legislation on this point would not be appropriate, but the proposed traffic control should reduce risk of collision."

With regard to the use of radar aboard the *Roonagh Head* the Court said (answer to question 4d, Ex. 1353):

"Radar was in continuous operation. Echo of *Tritonica* first observed by Pilot \_\_\_\_\_ at a distance of about  $7\frac{1}{2}$  miles fine on port bow. At about 0142 hours, echo of *Tritonica* observed about  $3\frac{1}{2}$  miles fine on port bow. Course of the *Roonagh Head* 029. At about 0148 hours echo of *Tritonica* observed 2 miles fine on port bow. Echo is not plotted at any time. When the *Roonagh Head* noticed that echoes remained fine on port bow, even with small alterations to starboard they should have realized that the vessels were on collision course;"

- (c) Collision between S.S. *Leecliffe Hall* and M.V. *Apollonia*, the loss of the *Apollonia* and loss of life, September 5, 1964 (Ex. 1457)

On January 27, 1965, the Hon. Mr. Justice A. I. Smith, who presided over the Court of Formal Investigation, rendered judgment in this disaster. When the downbound *Apollonia* was in Coudres Passage, visibility began to diminish and the pilot contended that he ordered manoeuvring speed but the Court found that there was no evidence to show that there had been any reduction in speed prior to the visual sighting of the other vessel. The radar set, which was on the 3-mile range, was not constantly attended; at one point a target was observed at a distance of about three miles ahead and so far south that it was considered to be a downbound vessel; the radar was left unattended for  $2\frac{1}{2}$  or 3 miles until the upbound *Leecliffe Hall* was observed



just prior to the collision. On altering course, 4 or 5 minutes prior to the collision, the *Apollonia* sounded a fog signal for the first time. At that time, visibility was limited to one to two miles. Just before the collision occurred the Chief Officer reported "a big ship ahead" and the *Leecliffe Hall* was sighted visually on the starboard bow showing her port side at a distance of from  $\frac{1}{4}$  to  $\frac{1}{2}$  mile; the order "hard-a-starboard, full astern" was given immediately and three blasts were sounded just before the ships collided.

The *Leecliffe Hall* sighted the *Apollonia* for the first time on radar fine on the port bow at a distance of 3.9 to 4 miles. Course was altered  $8^{\circ}$  to starboard and after the alteration the angle of the target kept opening up to  $15^{\circ}$ . The engines of the *Leecliffe Hall* were still full ahead although visibility was nil. Until the *Leecliffe Hall* sighted the *Apollonia* visually, the vessels were, in fact, converging at a combined speed of at least 20 knots. When the *Leecliffe Hall* was first visually sighted, she was approximately 2,000 feet away approaching from port at an angle of  $35^{\circ}$  and not at all where she was expected. The order "full astern, hard-a-starboard" was given but the collision occurred almost immediately.

The Court found the causes of the casualty as follows:

"The collision was occasioned by the failure of those in charge of the two vessels respectively, to comply with requirements of Rule 16a (excessive speed under the circumstances) of the International Rules for the Prevention of Collisions at Sea and their failure to maintain a proper look-out and make intelligent and correct use of the available navigational aids, particularly radar and radio telephone; and in the case of the *Apollonia* the failure to sound fog signals in accordance with Rule 15.

The primary cause of the collision was the fact that, although those in charge of the navigation of the two vessels respectively were apparently relying exclusively on radar, they failed to make intelligent or proper use of this aid to navigation while neglecting to take the precautions dictated by the circumstances and required by the ordinary standards of good seamanship.

... Both vessels were proceeding at speeds which in the circumstances were excessive.

The Pilot, Master and Officer of the Watch on the *Leecliffe Hall* testified that they each took frequent radar observations. There is however, no evidence that a continuous radar watch was kept on either ship or that any steps were taken to relate one observation to another. It appears to have been assumed by the *Leecliffe Hall* that, since the bearing of the *Apollonia* was changing (opening), the ships were not on convergent courses but would pass safely port to port... this was an assumption which was unjustified... there was failure on the part of those in charge of the *Leecliffe Hall* to correctly determine their ship's position in the channel or appreciate that the vessels were on converging courses.

Those in charge of the *Apollonia* were certainly at fault in proceeding at full speed with radar on the three-mile range, at a time when visibility was limited to two and one-half to three miles... no proper radar watch was being kept, since when the *Leecliffe Hall* was first sighted she was only about one-quarter of a mile distant."

The Court also found that the collision did not occur in a "narrow channel" and, therefore, Rule 25 did not apply. The channel is about four miles in width (p. 132) in that area and navigation does not necessarily, nor always, proceed in the direction of the channel, but frequently moves from north to south and vice versa, to and from the open water which lies immediately southeast of Ile aux Coudres, either for the purpose of making use of the Traverse south of the island or of anchoring in the area immediately to the southeast. Therefore, it was an error if it was thought that the *Leecliffe Hall* had to keep to the starboard side of the channel.

The Judge came to the conclusion that "the *Leecliffe Hall* was considerably further to the south than those in charge of her appreciated", and, at the time of the collision, was turning somewhat to starboard, thus presenting her port side to the *Apollonia*.

The Court further remarked:

"Within the space of little more than one year there have been two major marine casualties in the immediate vicinity of Ile aux Coudres. Reference has been made to the long and sometimes unblemished records of pilots who navigate these waters. There is however, more than the possibility that these casualties are in part due to a certain casualness bred of long experience and that, as in the present case, there has been a disregard of the rules and failure to make efficient or intelligent (and in some cases any) use of the navigational aids with which these vessels are equipped. This Commission would be remiss if it failed to emphasize the seriousness of this neglect and failure to observe the rules and the dictates of ordinary good seamanship by imposing penalties commensurate with such neglect and failure.

Such penalties are not imposed primarily as punishment but rather in order that their imposition may serve as a warning and a deterrent to others who may find themselves in similar circumstances."

The Court also made the following recommendations:

- (i) that a second traffic lane be opened in the North Channel through the Middle Traverse to provide one-way traffic lanes in order to prevent ships meeting in the dangerous vicinity of Coudres Island;
- (ii) that licensed pilots be required to undergo a course of training to give them a working knowledge of the proper function and use of radar as an aid to navigation; it is "apparent that reliance on radar (without such knowledge) has taken the place of prudence, alertness, compliance with the rules of the road and good seamanship";
- (iii) that a radar reflector be located on Pointe-à-la-Baleine because it would afford considerable assistance to upbound shipping, particularly in bad weather;
- (iv) that pilots be required to keep a log of each trip, indicating the times and "distances off" salient points passed *en route*, the log to be filed at the pilotage office as soon as possible after arrival;
- (v) that bulk carriers be required by regulation to close watertight bulkheads, at least in rough weather.

The recommendations were studied and implemented in part. On May 13, 1966, the Department of Transport reported (Ex. 1457) on each item respectively:

- (i) "The matter of possible one-way traffic lanes around Coudres Island is under intensive study by the appropriate branch of the Department at this time" (pp. 159-160).
  - (ii) "Pilots have been urged to take advantage of existing courses in radar....." (p. 251).
  - (iii) "The matter of the placing of a radar reflector at Pointe-à-la-Baleine was considered by the Aids to Navigation Division but the overload program of work did not permit them to carry out the installation. Further, the District Marine Agent at Quebec discussed the matter with local pilots who did not give him the impression that there was any great need for such an installation".
  - (iv) Re keeping a log for each trip, it was noted that, while this is a Canadian Pacific Steamship requirement, the pilots do not keep logs and a log has never been filed with the District Supervisor. The Pilotage Authority is of the opinion that the only result of such a requirement would be "a pile of useless paper in the pilotage office". It was stated, however, that most pilots keep private logs of their trips (pp. 316 and ff.).
  - (v) The recommendation to close watertight bulkheads in bulk carriers was implemented by an amendment to the Hull Construction Regulations (P.C. 1966-361, Feb. 24, 1966).
- (d) M.V. *Lawrencecliffe Hall*, and S.S. *Sunek*, collision, November 16, 1965 (Ex. 1461(y))

M.V. *Lawrencecliffe Hall*, a new ore carrier, fully equipped with the latest shipborne aids to navigation, was upbound in the North Traverse and S.S. *Sunek*, also equipped with radar and other modern aids to navigation, was downbound when they collided in the western sector of the North Traverse southwest of Pointe Dauphine (visibility was limited by fog and snow). After the collision, the Master of *Lawrencecliffe Hall* beached his ship to avoid sinking in the channel and risking loss of life.

The pilot of *Lawrencecliffe Hall* stated that he first sighted the *Sunek* on his radar screen at a distance of approximately four miles. Since there were three targets abreast he incorrectly formed the opinion that the two targets on the south were buoys 118½B and 119B and that the target on the extreme north was a ship either aground or stationary. He was mistaken since the southernmost object was not a buoy but the *Sunek*, because this ship did not pass north of buoy 118½B but at a certain distance south of buoy 119B, i.e., outside the dredged channel.



The Hon. Mr. Justice F. Chevalier, who presided over the Court of Formal Investigation, rendered his judgment March 19, 1966.

The Court noted that the *Lawrencecliffe Hall* pilot made three mistakes which led to the collision: first, he mistook his own position when passing buoy 116B; second, he misplaced the *Sunek* while she was abreast of buoys 118½B and 119B; and third, he miscalculated the course he followed between buoy 116B and the site of the collision. The result was that, instead of following a line parallel to the general direction of the channel, the vessel went progressively towards the centre and at the point of impact was somewhat south of it.

*Lawrencecliffe Hall* did not reduce her full sea speed of about fifteen knots until the *Sunek* was sighted visually, and *Sunek* was also at full manoeuvring speed of nine to ten knots. *Lawrencecliffe Hall* was sighted visually for the first time at 1100 feet, i.e., two ship lengths from *Sunek*, and *Sunek* was sighted visually at 1½ miles. From the evidence recorded, the Court came to the conclusion that the visibility was extremely poor at the time of the collision and in the minutes which preceded it.

*Sunek* followed the normal course until she neared buoy 119B, at which point the pilot miscalculated her position and proceeded south of the buoy and out of the dredged channel. When he realized his mistake he ordered quite a sharp alteration to port planning to assume his proper course, but after some time concluded he was well to the north of the centre line and altered course to starboard. At that crucial moment, he sighted the *Lawrencecliffe Hall* and gave various orders to avoid her but, because of the respective positions of the two vessels and the speed at which they were travelling, a collision was inevitable.

The Court concluded:

- (i) that both ships were on their wrong side of the channel when the collision occurred;
- (ii) that "both ships were driven at excessive speed, considering the visibility and the weather conditions";
- (iii) that the *Sunek* followed an erratic and dangerous course, first, by leaving the channel, "then, trying to re-enter into it too fast and at an angle which would normally, because of her length, make her reach for the Northern limit of the channel, and force her to try, at the same speed, another sharp turn to the right, when poor visibility precluded such a speed and such a manoeuvre";
- (iv) that the *Sunek* "also contributed to the unavoidability of the collision by not reducing immediately her speed when it was found that no sounding devices were in operating condition";
- (v) that the *Lawrencecliffe Hall* "was directed in a course which was irregular, and in the false assumption that the *Sunek* was outside of the channel and North of the Northern buoy."

The *Lawrencecliffe Hall's* pilot was found at fault for violating Rule 16, i.e., excessive speed when poor visibility existed, Rule 25 for not keeping to the starboard side of the channel and Rule 22 for crossing ahead of another vessel. His licence was suspended for six months. However, the Court's decision as to the contributory negligence of the *Lawrencecliffe Hall* was reversed in appeal, her Master and pilot were exonerated of all blame and the suspension of their certificate and licence was cancelled. In a decision dated August 31, 1966, based on the appraisal of the facts, the Exchequer Court in appeal found that the casualty was due solely to the erratic and illegal manoeuvring of S.S. *Sunek* (Ex. 1492).

The Court found that the *Sunek's* pilot was gravely at fault. He was considered to blame for excessive speed in the prevailing visibility, a situation which was aggravated by the fact that the *Sunek's* sounding devices were inoperative. The evidence showed that as a result of the erratic course of his vessel he could not be sure in the circumstances exactly where the approaching ship was located. Although the *Lawrencecliffe Hall* was sounding her fog whistle, he did not reduce speed and "went on, on a most unusual course". He contravened Rule 25 by not keeping to his side of the fairway. "He showed a strong disregard, or at least a wilful carelessness in his general behaviour for the usual pilotage rules, by not checking, before he boarded the *Sunek*, what was the traffic that he had to meet with, by not checking the weather he was to encounter and by having a general attitude of disinterest from his duties." The Court awarded him a nine-month suspension.

The Court further recommended:

- "1—That regulations be enacted in order that any ship of a certain tonnage which sails in Canadian pilotage waters be equipped with a VHF radiotelephone and that security calls be given as to her position, destination, direction and speed at certain points of the route, said points to be detailed in the regulations.
- 2—That in the case of large ships (the tonnage of which is to be determined) which sail in narrow channels, a speed limit be made mandatory, when they meet or pass one another."

The Department of Transport, in a letter dated April 29, 1966 (Ex. 1466(f)), reported that these recommendations were being implemented:

"As you may have seen in the press the department has embarked on a very extensive study of safety conditions on the St. Lawrence River. As a development of this study Captain George G. Leask, has been appointed head of a new marine traffic control operation for the St. Lawrence River..." (vide pp. 180 and ff.).

"As an interim measure steps are being taken to provide any ships, that do not already have VHF radio-telephone equipment, with a small "walkie-talkie" set at Les Escoumins. A set of instructions for pilots with regard to the use on a "ship to ship" basis of the VHF radiotelephone is being drafted.

With regard to speed limits we are not going any further at the moment than warning ships about excessive speed... It is felt that when the traffic control operation becomes a reality the speed factor will be taken care of." (vide p. 180).

(e) S.S. *Exiria*, grounding, June 23, 1967 (Ex. 1538(a))

On June 23, 1967, S.S. *Exiria* upbound to Montreal embarked a pilot off Les Escoumins; 50 minutes later, she grounded in the vicinity of Red Islet Bank. As a result of the grounding the vessel sustained damages amounting to between \$250,000 and \$300,000. The same pilot who was on board S.S. *Sunek* at the time of her collision with the M. V. *Lawrencecliffe Hall* was involved.

The ship's position was not fixed at the point where the pilot took over off Les Escoumins. In order to please the Master, who wanted to reach Montreal as soon as possible, the pilot proceeded at full speed despite the fog that prevailed. Shortly before the grounding, the *Exiria* was warned by radio-telephone by a pilot on board another vessel *en route* to Port Alfred that the ship was heading directly towards a point situated in the vicinity of buoy 35B and was in grave danger of grounding. The *Exiria's* pilot answered that her course would be altered in a northerly direction. A few minutes later, the ship went aground. Because of damage to the engine room, the engines were stopped and the vessel drifted for approximately 15 minutes before she was anchored.

The Court found that the causes of the grounding were:

- (i) The course steered was wrong because of an incorrect assumption of the departure point. The bearing taken of Cap Bon Désir (about 1.3 miles west of the boarding area) was only approximate and no other position was fixed from Cap Bon Désir to Red Islet. "Consequently, the crew navigating in dense fog and almost total blindness, could not realize that they were heading for the reefs."
- (ii) Another contributory factor was failure to use navigational instruments, either at all or properly, i.e., direction finder, compass and, to a lesser extent, fathometer.
- (iii) Finally, although radar was used, "the targets shown on it were not adequately studied and were mistakenly identified, with the result that, all along the way, the pilot and the Master never suspected for a moment that their course was wrong and that their direction was leading the vessel out of the channel and to the shallow waters."

The Court found both the Master and the pilot to blame. As for the pilot, the Court held:

"His general conduct may be qualified by saying that he navigated the vessel with noted carelessness, with an attitude of disinterest and in routine like manner.



His conduct is the more to blame that the conditions prevailing at the time were unusual and required from a pilot all his attention, skill, and knowledge of the area. Those conditions were such that they should have invited him to make use of all the technical equipment at his disposal.

... the course, which was steered, was the "causa causans" of the accident. It was his primary obligation to see that the proper direction be given and that it be followed. This he did not do.

He was also remiss in his duty by:

- 1) Ordering or accepting full speed ahead, in fog, which constitutes a violation of *Article 16*, Paragraph (a) of the Regulations for Preventing Collisions at sea;
- 2) Failing to establish the vessel's position when he took over its conduct at Les Escoumins;
- 3) Taking only an approximate bearing at Cap Bon Désir;
- 4) Failing to make proper use of the navigational aids, such as radar, compass, direction finder, echo finder, radiotelephone and fog horn."

When it came to deciding upon the sentence to be imposed on the pilot, the Court noted that the grounding took place six months and four days after his licence was reinstated following a nine-month suspension resulting from the collision of S.S. *Sunek* and M.V. *Lawrencecliffe Hall*, and that the report of the investigation into that casualty contained "elements of evidence which, as far as his behaviour is concerned, establish a certain number of acts, faults, negligence and careless attitudes similar to those reproached in the present case." The Court concluded that the first accident and the suspension of his licence had not impressed upon the pilot the necessity of amending his ways of piloting. On the other hand, there was nothing in the record to indicate that he was not a good pilot or that he had not adequately fulfilled the requirements of his duties since his appointment in 1950.

In addition, the Court gained the impression from his appearance and behaviour before the Court that

"... he seems to suffer from a certain number of complexes which rendered him hesitant, unable to concentrate, incapable of taking decisions and confused in his mind.

Unfortunately, we have no way of finding what is the cause of that unbalance; whether his instability is due to a physical illness or to a deterioration of the mind; what are his personal habits and problems; if his present state of mind and condition is of a temporary nature or will tend to be chronic and permanent."

The Court found that "in his present state of mind and probably his actual physical condition, he is not fit to exercise his functions and he constitutes a grave hazard to the safety of the vessels and to the lives entrusted to his care".

The Court's decision was:

"first, to suspend Pilot Blank's certificate for a period of one year, to be computed from the date of this report; second, to order that after the expiration of this period, that is after the 1st of March 1969, he will not be entitled nor authorized to pilot any ship in Canada, unless and until he has undergone and

passed with success a complete examination or examinations by medical officers appointed by the Pilotage Authority for the District of Quebec, such examination or examinations having regard to his physical and mental ability.

If, after the completion of the examination or examinations above-mentioned, it is the opinion of the Authority, based upon such evidence as said Authority may deem sufficient, that he has become incapacitated by mental or bodily infirmity or by habits detrimental to his usefulness as a pilot, such Authority is hereby conferred the right and discretion to retire him permanently or, as the case may be, to grant him sick leave; the whole, according to the provisions of Articles 22 and 23 of the Quebec Pilotage District General By-law."

The pilot was not reinstated at the expiration of the suspension period. The Pilotage Authority followed the directives of the Court and arranged for the pilot to undergo a physical and psychiatric examination. He was found unfit to resume piloting and his retirement was authorized by the Pilotage Authority.

In this case, the Court found, on the evidence adduced, that it was incapable of rendering a final decision. A conditional award is legally questionable and, according to the legislation as it now stands, a Pilotage Authority is not bound by directives given it by a Court of Formal Investigation. The Court arrived at the right finding in deciding that the evidence established that the pilot was a safety risk and that he should not be allowed to pilot until the reason he was unfit to pilot was established. The dilemma in which the Court was placed resulted mainly from the mistaken concept that a Court of Formal Investigation constitutes a penal trial. Before the proceedings of the Court of Formal Investigation, a *prima facie* case of incompetence or unfitness was established and that the pilot was a safety risk. Hence, the pilot had the burden of the proof to rebut the presumption and to prove his competence and fitness. If he failed to do so, his licence should have been permanently withdrawn. In this regard, vide Part I, pp. 409 and ff. and Gen. Recs. 36 and 37.

#### COMMENTS

Analysis of these five major disasters indicates that they all could have been easily avoided if the basic rules of good seamanship and normal prudence had been observed, and the proper use made of shipborne aids to navigation, particularly radar. In all cases, there was an original pilot's error with far reaching consequences resulting in grounding or collision (in one case with serious loss of life). In the meantime, the pilot had many opportunities to discover his initial error, but failed to take advantage of them. The different situations were aggravated by excessive speed in circumstances which made the vessels uncontrollable within the narrow limits of the prevailing visibility. Too much reliance was placed on radar readings and the pilots failed to make correct and intelligent use of the information they provided—due to their lack of knowledge and training in their use. All the accidents occurred when visibility was reduced—even as low as nil—but the vessels

proceeded at high speed as in normal visibility. All the pilots concerned were of long experience, but they appeared to pilot with the familiarity that breeds contempt for the basic imperative rules of safety and prudence and with no apparent consideration for their heavy responsibilities. It is to be noted that since the amendment to sec. 647 C.S.A. in June 1961 (9-10 Eliz. II c. 32) no doubt remains as to a pilot's responsibility to ensure that a ship shall observe the Collision Regulations (P.C. 1953-1287).

However, the pilots are not the only ones to blame because the rules governing speed in low visibility and sounding fog signals also apply to the Master and the officer of the watch. They should have realized that these rules were not being followed and they should also have assisted by checking the ship's position by all the means available to them, such as identifying buoys sighted and using echo sounder, radio and direction finder.

The Department of Transport took steps to warn all shipping (see Notice to Mariners No. 234 dated April 15, 1966) of the danger arising from undue speed in the ship channel, that shipmasters and pilots were urged to note that speed was a contributing factor in several serious collisions on the River the previous year, and that the results of Formal Inquiries showed that some ships are proceeding at far more than a moderate rate in poor visibility in dredged channels where they may be harder to handle. The Notice ended with a warning to Masters and pilots to take particular notice of these judgments which indicate that the rules of good seamanship are being ignored (Ex. 1466(g)).

Referring to the proper use of radar, the recommendations of the "Safety of Life at Sea" Conference, entitled "Information concerning the use of Radar in avoiding collisions at Sea" have been published every year since 1960 for information in Notices to Mariners.

#### (B) *Preliminary Inquiries*

Between 1955 and 1967, Preliminary Inquiries (Part I, p. 404) were held into thirteen casualties involving Quebec pilots which were not later investigated by a Court of Formal Investigation or a Court of Inquiry under sec. 579 C.S.A. The causes were reported as follows:

- (a) Collision between S.S. *Scythia* and M.V. *Sunland* at Bic Island in April, 1955; contributory negligence of a minor nature on the part of both ships.
- (b) Stranding of S.S. *Middlesex Trader* at Brûlé Bank on July 16, 1955; lack of understanding between pilot and wheelsman and pilot's failure to check if orders were understood and carried out.
- (c) Grounding of S.S. *Supertrader* on White Island Reef, July 24, 1955; pilot's imprudence and error of judgment.



- (d) Grounding of S.S. *Manchester Merchant* on Red Islet, August 18, 1955; Master's error with the pilot also to blame for handing over the ship to the Master in view of the dangerous locality.
- (e) Stranding of M.V. *Sungran* in the Saguenay River, September 15, 1955; pilot's failure to check if orders were understood and implemented by wheelsman.
- (f) Collision between M.V. *Salacia* and S.S. *Sept-Isles*, June 28, 1956; imprudence and lack of caution on the part of both Masters and both pilots.
- (g) M.V. *Lunan* striking Cap des Roches in the Saguenay River November 13, 1958; pilot's failure to ascertain his position.
- (h) Collision between S.S. *Argyll* and M.V. *Sunima* in Quebec harbour, May 27, 1959; both pilots not paying attention to course steered; (vide Part I, p. 351).
- (i) Grounding of M.V. *Marquette* on Cap St. Joseph June 28, 1959; pilot's errors: wrong course in poor visibility, no checking if orders followed, no use made of radar, no verification by bridge officer.
- (j) Collision between S.S. *Roonagh Head* and M.V. *Rutenfjell* off Sault au Cochon April 14, 1960; fault of one pilot only for excessive speed and lack of good seamanship.
- (k) Triple collision between M.V. *Avery C. Adams*, S.S. *Instein* and S.S. *Roonagh Head* in Quebec harbour anchorage April 15, 1960; pilot moving ship although operating under very difficult circumstances.
- (l) Collision between C.C.G.S. *Cartier* and M.T. *Seven Skies*, four miles west of Morin Shoal July 18, 1963 (Ex. 1466 (k)) (vide p. 393).
- (m) Triple collision between M.V. *Calgadoc*, M.V. *Canadoc* and M.V. *Bariloche* in the Lauzon Bend July 19, 1963 (Ex. 1466 (1)) (vide p. 134).

(c) *Inquiries under Sec. 579 C.S.A.*

Inquiries into pilots' conduct were also held regarding other casualties which occurred during the same period. The findings were:

- (a) Grounding of S.S. *Oak Hill* off Lauzon on August 25, 1962; physical impairment of pilot which remained undiscovered (p. 389).
- (b) Grounding of M.V. *Continental Pioneer* in Anse-à-la-Barque September 5, 1962; same pilot's physical impairment (p. 389).
- (c) Grounding of M.V. *Irvingstream* in Quebec harbour November 25, 1962; lack of care and diligence on the part of the pilot (Ex. 1467) (p. 396).

## COMMENTS

These Preliminary Inquiries and Courts of Inquiry reveal that when the pilot's conduct was reported the cause of the accident, or at least a contributing factor, the various errors were:

- (a) unsuspected physical or mental impairment of the pilot;
- (b) orders not being correctly carried out by the wheelsman with neither the pilot nor the bridge officer verifying;
- (c) plain negligence; in one collision both pilots failed to pay proper attention while their ships were negotiating the Lauzon Bend;
- (d) taking for granted that the ship's position was correct in poor visibility rather than verifying by all available means, failing to sound fog signals and excessive speed under the circumstances.

Except for the two cases attributed to physical unfitness, all the other casualties would have been avoided if the pilots had not been so sure of themselves and had been more alert and conscious of their responsibilities. Double-checking by the various means available to them would have shown in time that their ship was in the wrong position. In addition to some lack of understanding and knowledge in certain fields, these cases indicate a definite lack of personal discipline on the part of a few pilots.

Great progress has been made in recent years in the field of assistance to navigation on the St. Lawrence River and vessels are now equipped with the most modern and highly reliable instruments. However, these aids, instruments and assistance services can be of value only if intelligent use is made of them. The first requirement is that pilots become fully conversant with their use and acquire the habit of taking full advantage of them. While the primary responsibility for meeting this requirement rests with the pilots, it is also the duty of the Pilotage Authority to assist them by making the appropriate courses available and exercising the necessary surveillance and reappraisal to ensure that the requirement is complied with (vide Part I, C. 9 and Gen. Recs. 26-37).

*(D) Discipline*

In contrast with the situation in other Districts, the disciplinary and reappraisal powers of the Pilotage Authority under Part VI C.S.A. and of the Minister under Part X C.S.A. have been a most controversial question during recent years in the Quebec District. As in other Districts, the Pilotage Authority has acted as a penal tribunal to dispose of both disciplinary and reappraisal cases, but in this District these proceedings, and even the powers of the Pilotage Authority to act as such, have been repeatedly challenged, generally with success. The result has been that, except in routine minor cases and some others where the pilots accepted the decision, the Pilotage Authority has become powerless to enforce discipline in the most serious cases and to prevent a pilot from piloting when he appears to be, or is, a safety risk. All the various attempts to devise a solution have failed, except when the case

could be dealt with by a Court of Formal Investigation and was serious enough to warrant resorting to this involved and exceptional procedure.

The extensive evidence adduced on the subject and the records of the cases concerned have constituted the bulk of the material on which the Commission's study contained in Part I, C. 9, is based. This evidence and the most typical cases are summed up in the pages following.

For the Commission's remarks, comments and recommendations on enforcement of discipline, appraisal and reappraisal of pilots' qualifications and Pilotage Authorities' powers of investigation, reference is made to Part I, C.9, including, *inter alia*, the footnote on p. 428 re the general passive attitude adopted by the Pilotage Authority, and General Recommendations 26-37 (Part I, pp. 556 and ff.).

To these remarks it is pertinent to add the comments made by Mr. Justice Casey of the Quebec Court of Appeal in the case of *Meunier v. the Queen* ((1966) BR 94) which he made regarding the application of criminal justice but which apply equally to the discipline of pilots when administered by Government entities whose powers and jurisdiction are governed, defined and limited by legislation:

"... in criminal proceedings not only must justice be done, it must be done according to law. This means that in criminal courts, at least up to the point of sentencing, the notions of fair trial and legal justice dominate. It is by insisting on the administration of justice strictly in accordance with the law that one achieves stability and equality of treatment."

Each year the Quebec Pilotage Authority, either directly or through its representative, the Regional Superintendent or the District Supervisor, has been acting as a penal tribunal on pilots' disciplinary matters and as such, according to the powers purportedly derived from its General By-law, has been awarding fines and suspensions or cancelling licences. For instance, in 1964, four suspensions were imposed and five fines, ranging from \$15 to \$40; in 1965, one pilot was suspended for ten weeks and fines were awarded.

In addition, other punishments unauthorized either in the Act or in the By-law are being imposed. These are mainly reprimands but, in addition, there is the severe indirect punishment arising from the special system of despatching in use in Quebec which consists of taking a pilot's name off the assignment list and depriving him, when reinstated, of the right to the equalization of turns rule (Part I, pp. 400-2). This penalty is imposed without any form of trial. The ensuing loss in earning rights always amounts to several hundred dollars.

With regard to the summary disposal of minor offences by the local representatives of the Pilotage Authority, the former Supervisors commented as follows.

Mr. Hamel stated that when he was Superintendent he always had the co-operation of the Pilots' Committee and, although there were times when he was obliged to take disciplinary action, cases were not very frequent,



mostly being late for duty and one exceptional instance of drunkenness when he had to impose a suspension. This was the only time he even had to go on board a ship to make an inquiry. Once he imposed a punishment for impoliteness to a clerk.

When he took over his office in 1936, he often acted unofficially upon information received, but this caused him some difficulty and he said that he soon learned not to take any action unless the complaint or information was given in writing. He found that information generally came from his employees and that a pilot would very seldom report another pilot, especially for drunkenness on duty. When he received a written complaint his practice was to send for the pilot and question him. If the pilot did not admit his guilt, he was generally unable to proceed because he had no evidence against him, but when he had proof he awarded the maximum fine he could impose, which was \$40. However, in all cases the pilot could ask for an official inquiry.

After the 1955 By-law amendment for cases of use of alcohol while on duty or about to proceed on duty, the procedure was different since he no longer had the right to deal with these cases himself and all he could do was take the pilot concerned off the tour de rôle, make an investigation and report to Ottawa Headquarters where disciplinary action was taken (Part I, pp. 349 and 372). In other cases, however, the Supervisor retained his disciplinary powers.

Captain H. Allard stated that as Superintendent he also was obliged to exercise disciplinary powers. The procedure he followed in minor cases was very simple: upon receipt of a complaint he made an inquiry prior to seeing the pilot; then he called the pilot to his office and informed him of the complaint; if the pilot did not have a good explanation, a fine was imposed or, at times, he was only reprimanded. During his term of office he had to impose fines mostly for pilots missing their turns.

Cases of drunkenness were beyond his powers of discipline. Before investigating such cases he requested a written complaint, upon receipt of which he immediately took the pilot off the tour de rôle after informing him of the complaint. He then proceeded to hold his informal local inquiry which the pilot was not allowed to attend. In one case, however, the legal adviser of a pilot was permitted to attend as an observer. When the complaint originated from the Master of a vessel, he proceeded on board and obtained the facts in the form of affidavits that he drafted himself after having heard the statements of the witnesses. Being a Justice of the Peace, he attested the affidavits himself.

Mr. Maheux stated that since he became acting Superintendent in May 1963 he also had been confronted with disciplinary cases. In one case, a pilot who had lost his turn on two occasions refused to see him although he had required him to do so; another case concerned a pilot who was absent

without leave. He referred both cases to the Regional Superintendent because he believed that as Acting Superintendent he possessed no disciplinary powers.

Taking a pilot off the assignment list (with its serious pecuniary consequences) is used as an indirect method both of compelling him to appear before the Supervisor and of imposing a punishment. However, Mr. Maheux added that this is not automatic. When a pilot is requested to report to the Supervisor to explain a delay or an absence, he is not taken off the list unless he fails to report within a reasonable time. There is nothing, either in the By-law or in the despatching rules, to authorize this procedure.

Captain Allard stated that on one occasion in 1962 a pilot who had been absent without justification when his turn came up was taken off the assignment list on June 13. When he returned on July 11, he was five or six turns behind his fellow pilots. He was reinstated on the assignment list but was shown for despatching purposes with the average number of turns (i.e., credited with lost turns). The net result was that by unilateral decision of the Supervisor and without trial he was prevented from making up his lost turns. This constituted a very heavy indirect fine of between \$500 and \$600. This procedure is also not authorized (Ex. 1464(a)). No charge was laid for his absence without leave or for his failure to appear when ordered.

A letter dated February 8, 1966, from Captain F. S. Slocombe enclosed a copy of a memorandum dated February 3, 1966, from Captain LaHaye which refers to this incident as follows "the person had vanished completely for a lengthy period and the allocation of the missed turns constituted a disciplinary measure which may be considered quite exceptional (Authority Secs. 15(1) (7), 20(e), 21(2) of the By-laws of the District)." Captain LaHaye added that a pilot does not automatically lose his privilege of making up the turns he has missed through being absent without the Supervisor's permission and without a reasonable excuse. In such a case, the pilot is taken off the tour de rôle and not put back until he has appeared before the Supervisor. Normally, a fine will be imposed or a reprimand handed out and the pilot's name will be placed at the bottom of the list with the number of turns he had at the time he went absent without leave thereby allowing him the opportunity to catch up the missed turns Ex. 1464(a).

He added that, in the case of a pilot under preventive suspension for alleged use of alcohol while on duty or about to go on duty, if the investigation revealed the charge was unfounded, the pilot would have the benefit of equalization; if the charge was founded, he would not be given the benefit of equalization of turns and this period of absence from the tour de rôle would become in practice all or part of the ensuing punishment (Ex. 1464(a)). This also is not provided for in the Act or in the By-law or in the despatching rules; secs. 19 and 20 of the District By-law do not state that a pilot found guilty of such offences is to be deprived of the right of equalization of turns for the period of his preventive suspension.

Furthermore, a pilot whose licence is suspended for disciplinary reasons automatically loses the benefit of equalization of turns. The average number of turns obtained by the remaining group is allocated to him when his suspension ends and it is, therefore, impossible for him to make up the turns lost during this period. This also is not provided for but is an implied consequence of the suspension, which means in effect that during the suspension period the man was not a pilot.

In case of a minor breach of regulations the pilot is not always requested to appear before the District Supervisor. At times, the statements of the witnesses and the pilot concerned are obtained by mail and the findings and the sentence are handed out in the same way. For instance, on December 21, 1964, the District Supervisor wrote to one pilot telling him, in substance, that it had been brought to his attention that on December 18, after having piloted a vessel east of Les Escoumins, he had piloted the same vessel back to Quebec without authorization, and in contravention of the By-law and of the practice followed in the District. The pilot was requested to furnish his explanation. In a letter dated December 23, the pilot explained that the vessel to which he had been assigned with another pilot (it was a winter assignment) was a tug assisting another vessel through the ice and that the exact final destination was not known. The trip turned out to be much longer than expected on account of the ice and they had to go as far as Father Point. The Master of the tug asked the two pilots to make the return trip with him because he had no mate. The Les Escoumins station was so informed and no objection was raised. In a letter to the pilot dated January 4, the Regional Superintendent rendered his decision to the effect that the pilot had violated subsec. 15(1) of the By-law but that, in view of the fact that the despatcher at Les Escoumins had not reminded him that the regulations required him to be relieved, only a small fine of \$10 was being awarded (Ex. 1464(c)).

### Examples of Disciplinary Cases

The following are cases of investigation and attempts to take disciplinary measures which were dealt with at length in the evidence. They illustrate the inability of the Pilotage Authority to deal with serious disciplinary cases under the procedure being followed (Part I, pp. 414-428; for other instances, vide pp. 218 and ff.):

- (a) The *M.V. Arrow* incident  
(Part I, pp. 413-422 and 427)

On August 3, 1962, the Master of *M.V. Arrow*, a Greek vessel, wrote to the Quebec Pilotage Office complaining that on August 2, 1962, the pilot who boarded his vessel at Les Escoumins was under the influence of liquor. He stated that at first he had attributed the pilot's dizziness to being wakened up early but he soon realized that it was caused by drunkenness. He then



dismissed the pilot and reported the matter to Quebec by radiotelephone. He was obliged to proceed to Quebec without a pilot and refused to pay the dues. On August 3, he made a written complaint in which he stated that he intended to make a claim in damage for inconvenience and delay.

When the District Supervisor, Captain Allard, received the letter, he sent for the pilot, told him about the complaint and asked him whether he had anything to say in explanation. There was no previous complaint of drunkenness in the file of the pilot concerned. The pilot was taken off the roster, allegedly as required under the By-law. Captain Allard proceeded the same week to Les Escoumins to conduct a personal inquiry. There he questioned the clerk in charge at the time of the alleged incident and also the Master of the pilot boat. In Quebec he interviewed the boatmen. His inquiries led to the conclusion that the pilot was normal both when he embarked and disembarked. He learned that at Les Escoumins the pilot had proceeded directly to the pilot boat without calling at the office but there is no rule obliging a pilot to visit the pilot station which, at that time, was a long way from the pilot boat wharf. However, the boatmen, who are D.O.T. employees, are authorized to prevent a pilot from boarding if they believe that he is not in a fit condition.

The District Supervisor made his negative report to the Pilotage Authority as required by subsec. 19(4) of the By-law.

Despite this report, the Ottawa Headquarters decided that the case should be tried by a Court of Inquiry convened under sec. 579 C.S.A.

Captain Gendron was appointed by the Deputy Minister of Transport to hold the inquiry, assisted by Mr. C.K. Kennedy, legal adviser of the Department. The Court sat on August 31, 1962. A statement of the case was furnished to the pilot prior to the inquiry which read as follows:

"It is alleged that on August 2, 1962, while on the vessel M.V. *Arrow*, Mr. (pilot's name), being on duty as a pilot, was found to be under the influence of alcohol when on duty, contrary to the provisions of subsections (1) and (2) of section 19 of the Quebec Pilotage District General By-law."

The inquiry was held and the report is dated May 4, 1963 (Ex. 1312). Evidence was taken under oath, the pilot attended with his counsel and was given permission to cross-examine and bring witnesses.

The testimony of the Master was corroborated by his Second Officer, the steward and the other members of the crew. However, the inquiry had been limited to the personnel of the vessel. The Master reported, *inter alia*, that the pilot had told him that he had been at a party the night before. Other members of the crew added that upon arrival at Quebec the pilot had to be helped down to the pilot boat. The Investigating Officer did not pursue the inquiry further; the Quebec boatmen were not interviewed, nor was any witness called to establish the behaviour of the pilot at Les Escoumins prior to boarding the vessel.

The pilot was allowed to present a defence by affidavits, a very prejudicial procedure in that the Department of Transport counsel and even the Court were thereby deprived of the possibility of cross-examining the defence witnesses. The pilot presented an affidavit from his personal physician stating that on July 11, 1962, he had prescribed twelve "292" tablets to be taken at the maximum rate of 3 or 4 every 24 hours and that these tablets contained codeine which could have had the awkward effect of causing the symptoms of acute alcoholism. The pilot's own version was also contained in an affidavit in which he stated that the day before he had felt some pain, had taken a number of these tablets and, since he did not feel better during the trip, he continued to take pills, 7 or 8 in all.

The Court of Inquiry's conclusion was as follows:

"In view of the strong evidence of the ship's complement brought about by questioning verbally, and the defence's affidavits which are not corroborated by any of the witnesses on board (nobody having seen the pilot take any pills during the period he was on board and especially during the period he was lying down in the chartroom under the care of a man on watch) and the pilot's admission to the Master that he had been to a party the evening of August 1, 1962, we must conclude that he was in fact under the influence of alcoholic beverages and that he acted contrary to subsections (1) and (2) of section 19 of the Quebec Pilotage District General By-law.

We therefore recommend that Pilot—————'s licence be suspended for a period of one year."

The final decision pursuant to subsec. 579(5) C.S.A. rested with the Minister. The Investigating Officer had given permission to the pilot's counsel to file his submission of arguments in writing. This was done on January 18, 1963, and in these pleadings two arguments were raised:

(i) Lack of jurisdiction:

- the appointment was made by the Deputy Minister instead of the Minister;
- the subject matter of the inquiry, i.e., an alleged breach of the Pilotage District By-law was not within the jurisdiction *ratione materiae* of the Court set up under sec. 579 C.S.A.;
- sec. 579 C.S.A. does not apply to pilots.

(ii) That the evidence was illegal, not preponderant, conflicting and contradicted by the evidence presented on behalf of the pilot.

On March 19, 1963, the legal advice of the Department of Justice was sought as to the legality of the proceedings. On July 19, 1963, the Deputy Attorney General of Canada gave the opinion that if the Minister took action on the inquiry made, three possible questions relating to the jurisdiction and conduct of the inquiry could be raised:

- “(a) whether the Minister can cause an inquiry to be held under section 579 C.S.A. in the case of a pilot at all;

- (b) there is no evidence that the Minister of Transport personally had reasons to believe that the pilot, from incompetency or misconduct, was unfit to discharge his duties, the decision (to convene a Court of Inquiry) having been made by the Deputy Minister of Transport, and
- (c) whether, in any event, having regard to paragraph (a) of subsection 5, section 579, a charge based on a violation of subsections (1) and (2) of section 19 of the Quebec Pilotage District General By-law is the sufficient charge to an inquiry under section 579 C.S.A.

With regard to (a), I am not satisfied that subsection (2) of section 568 renders a pilot subject to an inquiry under section 579. I think that, having regard to other sections of Part VIII which specifically make pilots subject to the jurisdiction of other inquiries and the specific provisions of the By-law, it is only arguable that a pilot was subject to the jurisdiction of an inquiry under section 579.

With regard to the authority of the Deputy Minister to cause an inquiry to be held under section 579, I think that there is considerable doubt whether the Deputy Minister has this power unless it can be shown that the Minister had reason to believe that the pilot was, from misconduct, unfit to discharge his duties."

In conclusion, he said that he could not recommend that the Minister act on the basis of this inquiry and suggested that the matter be kept in abeyance until the decision of a *certiorari* pending before the Exchequer Court in the case of the grounding of the vessel *Timna* involving a Montreal pilot was handed down.

A decision was never rendered by the Exchequer Court on the *certiorari*; a discontinuance was filed September 4, 1963 (Exchequer Court file A1426).

On August 2, the Department of Transport wrote to the Department of Justice suggesting that the defence counsel for the pilot give an affidavit declaring that the pilot had been under the influence of a narcotic drug, in which event the case could be pursued without further inquiry. On August 8, the Department of Justice agreed provided the evidence obtained during the hearing was not introduced again, but only the pilot's affidavit to establish a breach of the By-law. In other words, this meant that the pilot's affidavit would amount to a plea of guilty and that the evidence obtained under sec. 579 C.S.A. was not admissible at such a disciplinary trial. The legal adviser of the Department of Transport felt that this restricted the case to a very narrow issue and since sec. 688 C.S.A. provides the limitation of six months on summary proceedings, which might be applicable to a case of this nature, it was decided not to pursue the matter further.

This case, however, was doomed from the beginning because sec. 579 does not give the Minister power to enforce discipline on a pilot or to prosecute him for a violation of the By-law. The statement of the case did not describe a case within the court's jurisdiction. Such a court being a court of exception, its jurisdiction is limited to the question of competency and that type of misconduct which is defined in sec. 579 and can not be extended beyond terms of this section (Part I, p. 422).



(b) S.S. *Oak Hill* and  
M.V. *Continental Pioneer* cases

On August 25, 1962, at 22:25 a pilot boarded the downbound *Oak Hill* at Quebec. A few minutes later, at 23:10, the vessel grounded off Lauzon near Buoy 87½ on the south shore of the River. A few days later, on September 5, 1962, the same pilot boarded the *Continental Pioneer* at Les Escoumins at 21:15, and 25 minutes later the vessel was stranded in clear weather at Anse à la Barque about 15 miles upstream from Les Escoumins.

Prior to the *Oak Hill* accident, this pilot gave the District Supervisor three medical certificates, one from a neurologist who was also a psychiatrist in a hospital where both psychological conditions and alcoholism are treated. Also prior to these accidents, the Pilotage Authority in Ottawa knew of the difficulties the local authorities had experienced with this pilot and was aware of the medical documents.

This pilot's record (Ex. 711) lists a series of events in the weeks preceding the two casualties. The entries in 1962 are:

June 19—Fined \$40 for failing to answer when called.

July 3—Reported sick and missed his turn.

July 12—Placed in turn after medical examination by National Health and Welfare.

July 18—Fined \$20 for failing to arrive in time, vessel having to wait for him at Quebec.

July 21—Missed his turn, removed from the list.

July 27—Placed in turn with the average, lost six trips.

Aug. 1—Fined \$20 for being late boarding a vessel.

Aug. 3—Reported sick.

Aug. 25—Placed on tour de rôle list, having produced a medical certificate that he was under treatment.

Aug. 25—Grounding of S.S. *Oak Hill*.

Aug. 29—Placed back on tour de rôle list.

Sept. 5—Grounding of M.V. *Continental Pioneer*.

Nov. 15—Suspended for an indefinite period re groundings of S.S. *Oak Hill* and M.V. *Continental Pioneer*.

With respect to disciplinary action for the various absences between June and August 1962, the District Supervisor reported that, except for the fine imposed on June 13, no fine was imposed for the subsequent absences without leave prior to July 11 because the pilot had been taken off the list and not allowed to make up his lost turns, i.e., five to six turns which indirectly amounted to the considerable indirect fine of \$500 to \$600.

After a series of absences, allegedly for illness, the pilot was requested by a Departmental official to submit to a medical examination to establish whether these absences were legitimate. The examination was performed July 11, 1962. The report was that there was nothing wrong with him physically but his trouble was psychological—a temporary mental stress which made him very nervous and prevented him sleeping—and that the condition did not render him unfit for pilotage duty. This last conclusion was beyond the competency of the medical officer, unless he was exceptionally conversant with the nature and conditions of pilotage and the stress, hardship and responsibilities it involves. Only experts in pilotage matters can determine an individual's fitness to perform pilotage duties after they are made aware by medical evidence of the nature and extent of the physical or mental impairment.

Despite this report, the District Supervisor considered that the pilot needed a good rest and suggested he take a few days' additional holiday. The pilot complied and later brought back a certificate dated August 21, 1962, in which the doctor in charge of a clinic where the pilot had retired merely stated that the pilot had been under his care at the clinic from July 11 to August 21. Under the circumstances, the District Supervisor reinstated him on the list because, according to the By-law, he had no alternative since the medical certificate of July 11 declared the man fit to work and this was not a case of drunkenness. He was put on the list the morning of August 25 and the *Oak Hill* accident occurred during his first assignment that evening.

When the District Supervisor saw the pilot the morning of the accident he seemed perfectly fit, his morale was good and he was enthusiastic about going back to pilotage.

Captain Slocombe of the Department of Transport stated that prior to the *Oak Hill* incident there was not sufficient evidence in the pilot's file to warrant a cancellation of licence. The pilot had been licensed August 18, 1959, and prior to the accident he had piloted a great number of ships successfully for more than three years. He had had no previous accident.

According to the procedure following an accident the pilot was taken off the tour de rôle to facilitate the inquiry and to allow him to complete his casualty report (as to power to impose a preventive suspension, vide Part I, pp. 343 and ff.).

The District Supervisor carried out his own fact-finding inquiry immediately. The Supervisor boarded the vessel about two hours after the accident. He wanted to see the Master in order to find out whether he needed any assistance and to inform him that the Department of Transport was looking after the matter. He also wished to verify the pilot's nervous condition. When he met the Master, however, he did not inquire about the pilot's behaviour just before the accident because all on board were excited and no information was volunteered. He informed the Master that he would return the next

morning. He disembarked with the pilot whose behaviour he found normal in the circumstances and, although he did make a special effort to smell his breath, he did not notice anything particular. The morning after, he went aboard and the Master informed him that neither he nor any one of his officers would make any statement prior to the arrival of their legal adviser.

Between the two casualties, i.e., on August 28, the pilot underwent a second medical examination. This was also conducted by a physician from the Department of Health and Welfare and the conclusion was that there was nothing wrong with him physically.

Following this new medical report, the pilot was returned to the tour de rôle August 29. Captain Allard said that this decision was approved by his superior officers. His recommendation was that a preliminary inquiry be held but that, in the meantime, the pilot be placed back on the list. In any event, it never occurred to him at that time that the pilot might be physically unfit.

Steps were taken under sec. 579 C.S.A. to hold an inquiry into the conduct of the pilot but before it was convened the pilot was involved in a second casualty, the grounding of the *Continental Pioneer* on September 5, as stated earlier. The District Supervisor was immediately informed and he proceeded without delay to hold his personal inquiry. He was on board the vessel a few hours after the stranding. He obtained affidavits from the Master and officers who informed him that the pilot had gone fast asleep at his post and that it had been impossible to awaken him for many hours. He did not notice that the pilot smelled of garlic and at that time he did not know that this might have had any significance.

The Supervisor again took the pilot off the assignment list. The Authority concurred because it was felt this second occasion justified removing his name from the list, whatever the consequence might be.

On September 6, 1962, the Court of Inquiry into the conduct of the pilot in the case of the *Oak Hill* stranding was ordered by the Acting Deputy Minister of Transport pursuant to sec. 579 C.S.A. In the statement of the case, mention was made that there was reason to believe that the pilot "is from misconduct unfit to discharge his duties."

The Court sat at Quebec on September 13, 1962. The pilot and his counsel attended the inquiry but he made no defence at that time, reserving his right to submit a written argument at a later date. In the report the evidence is summed up as follows:

"Mr. ——— boarded the *Oak Hill* off the pilotage station in Quebec Harbour at 22:25 hours on August 25, 1962. The ship proceeded down the river, the weather being fine and clear with a slight breeze. It was dark at the time. The Master stayed with the pilot for five minutes or so and then retired to his room. Shortly thereafter, while he was in his room, the master heard a grinding noise, and, knowing that the ship had grounded, went immediately to the bridge and put the engine full astern. This was 22:39, 14 minutes after the pilot boarded. The pilot was telling the officer of the watch that he thought the anchors had



been carried away. The master sent the third officer forward and the anchors were secured in the hawse pipes. It appears that the ship was steered to pass south of Buoy 87½B, i.e., on the wrong side of the buoy, and grounded on the 25-foot shoal close southwestward of the buoy. The master stated that after the accident the pilot was definitely overexcited and was talking all the time. There was nothing in the evidence to suggest that the pilot's faculties were impaired by alcohol, the master pointed out that he would not have left him on the bridge if he had appeared at all strange."

On September 17, 1962, the Deputy Minister of Transport convened a second Court of Inquiry under sec. 579 C.S.A. with the same appointees as members of the Court and legal counsel. The statement of the case mentioned that the Minister had reason to believe that the pilot was unfit to discharge his duties when on pilotage duty on board S.S. *Continental Pioneer*.

The inquiry took place at Quebec on September 24, and was concluded the same day. The pilot did not attend because he was then hospitalized, but he was represented by his legal counsel who could give no information about the nature of his client's illness nor about the probable duration of his hospitalization.

The investigation revealed that the pilot boarded the ship off Les Escoumins at 21:14. The weather was clear, the pilot took charge and ordered full ahead. The Master stayed in the wheelhouse for about five minutes but the Second Officer, who was the Officer of the Watch, remained with the pilot. About ten minutes later, the pilot gave a series of starboard course alterations heading the ship towards the shore. The Second Officer stopped the helmsman from altering further and informed the Master, but before the Master could take any action the ship ran aground. After the accident the pilot went to the chart room, where he fell asleep in a sitting position; they were unable to waken him.

The Investigating Officer gave his conclusions about these two inquiries at the same time:

"In neither of these inquiries was there any evidence of drunkenness. Mr. \_\_\_\_\_'s behaviour immediately on boarding these two ships appears to have been normal to the extent that it arose no suspicion on the part of the ship's personnel who received him and stayed with him for a reasonable length of time. However, on both occasions, shortly after taking over the conduct of the ship he became quite irrational, suddenly and without warning and I can find no explanation for his action. He seems to have been quite out of touch with reality."

The legal counsel for the pilot had agreed to a suspension for an indefinite period of time and the Investigating Officer so recommended, adding "the licence to be restored by the Pilotage Authority only after the Authority is satisfied that Mr. \_\_\_\_\_ is physically and mentally capable of carrying out the duties of a pilot." He further recommended that, when the pilot requested reinstatement, the Pilotage Authority should be prepared to hear his request and to order such examination of him as might be found necessary in the circumstances. This report was signed October 10, 1962.

On October 31, 1962, the Minister of Transport issued, pursuant to sec. 579 C.S.A., an order suspending the pilot's licence indefinitely and stated: "I find that Pilot \_\_\_\_\_ was on both occasions unfit to discharge his duties by reason of some unexplained physical or mental impairment." (re powers of the Minister under sec. 579 C.S.A., vide Part I, pp. 412 and ff.).

This was the first time an indefinite suspension was awarded. However, at a later date, the pilot's licence was cancelled.

Captain Slocombe added that between the two accidents the pilot was allowed to pilot because there was no evidence of misconduct, but simply the fact there had been an accident. The second accident occurred when the Department was in the process of convening an inquiry to give the pilot "his day in court" to answer the question whether he was fit to pilot.

The witness added "if there were a different relationship between the Pilotage Authority and the pilots, which we sincerely hope will come out of this Royal Commission, it would have been possible to take the man off the list on the slightest suspicion, or as I believe they do in the railroads, they take the man off duty as soon as he has had a casualty, no matter what happens."

"Perhaps we take a defeatist attitude in this matter of taking action with regard to pilots, but we have had so much difficulty in defending any action we took in the matter of a penalty, or in this case preventing a man from working a ship since the Bill of Rights. . ."

For the Commission's attitude towards these questions of powers of the Pilotage Authority to impose a preventive suspension and to make the necessary investigation, vide Part I, Gen. Recs. 28 and 29.

On September 17, 1964, the counsel for the Department of Transport stated before this Commission that a civil action for \$550,000 for repairs to the vessel and, among other things, her loss of earning power, had been launched by the shipowners against the Crown and involving the assignment of the pilot to the *Continental Pioneer*. As of April 1969 the case was still pending (United Steamship Corporation of Panama City v the Crown, Exchequer Court A2309, Petition of Right filed on September 3, 1964, Ex. 1466(q)).

(c) Collision between M.V. *Cartier*  
and M.T. *Seven Skies* (Ex. 1466(k))

About 10:00 P.M., Thursday, July 18, 1963, the Department of Mines and Technical Surveys Hydrographic Survey Vessel *Cartier* collided with the Swedish Motor Tanker *Seven Skies* near Murray Bay. Damage was light, no person was injured and both vessels proceeded under their own power. The *Seven Skies* had a pilot on board but not the *Cartier*.

When *Seven Skies*, downbound for Les Escoumins, was some four miles above Morin Shoals the weather became hazy, visibility decreased and radar

was turned on. Fog set in but speed was not reduced although the pilot advised "stand by engines". A blurred target was sighted on radar one mile ahead to starboard, engines were put at slow speed and the regulation fog signals were made. When a small white light was observed on the starboard bow, the officers on the bridge of the *Seven Skies* thought they were overtaking a small boat, the pilot ordered two short blasts and altered to port. Since the bearing of the light changed very little, he ordered "hard-a-port". A few minutes later the pilot noticed the approaching vessel's red light and to avoid colliding with her amidships he did not order "full astern" but waited until the other vessel was abeam before ordering "hard to starboard" to stop the ship's stern from swinging. The result was that the small vessel hit their starboard quarter a glancing blow with her stem. The casualty was investigated at Quebec, July 24, 1963, by a Court of Preliminary Inquiry convened by the Minister of Transport under sec. 555 C.S.A. and presided over by Captain M.D. Atkins.

The Preliminary Inquiry report was studied by the Departmental Revision Committee (Part I, pp. 426-428) and on September 17, 1963, its secretary submitted the Committee's report to the Assistant Deputy Minister, Marine. The pertinent sections of this report read as follows:

"As is now our practice, a committee of members of the Nautical & Pilotage Division reviewed Captain Atkins' report and in conclusion the committee accepted his findings that while the *Cartier* is not entirely free of some measure of blame for the collision, by far the larger portion of this blame must rest with the *Seven Skies* under the conduct of (pilot's name).

... By the pilot's own evidence, his handling of the situation was extremely poor and it is noted that

- (1) he failed to commence sounding fog signals at the onset of fog and did not do so until shortly before the accident;
- (2) he failed to reduce speed notwithstanding the radar detection of a vessel close ahead and when he finally did so it was too late;
- (3) his action in altering course so as to cross the track of the oncoming *Cartier* was wrong as judged not only by the subsequent collision, but from a reasonable assessment of the facts as they presented themselves to (pilot's name) at the time.

A further matter of serious concern was his failure to submit a report of this collision as soon as he disembarked from the vessel at Les Escoumins. He admits that he made no effort to do so and, in fact, his written report was not made until his return to Quebec and he had been confronted by the Investigating Officer. His explanation that as no major accident was involved the submission of a report could await his return to Quebec cannot be accepted as grounds for ignoring Section 17, subsection (3) of the Quebec Pilotage District General By-law, which requires that a report be made immediately after the accident to the Superintendent by whatever means are available and as soon as possible thereafter the pilot shall attend before the Superintendent and make a written report on the form provided for the purpose.

We consider that his negligence and his disregard of the requirement to report the accident merits a suspension of his licence for two months and recommend that this penalty be invoked by the Pilotage Authority.



A review of (pilot's name)'s record as a pilot, since receiving his licence in 1956 leads one to doubt that he should be entrusted with the conduct of a vessel other than possibly a ship of the smallest size. We, therefore, recommend that upon the completion of his period of suspension of license he be reclassified as a Grade C1 pilot, valid for vessels of not more than 2,000 tons."

The Department of Transport officers concerned held further discussions about the status of the pilot, his responsibility for applying the rules for the prevention of collision at sea, and the degree of punishment commensurate with the pilot's failure. Finally, on September 25, 1963, the Deputy Minister, without the pilot concerned being given a trial of any sort (the Preliminary Inquiry report not being a trial, Part I, pp. 404 and ff.), implemented the Revision Committee's recommendations, except that the suspension was reduced from two months to one.

On October 7, 1963, it was realized that according to the By-law the Pilotage Authority did not have the power to reclassify a pilot from Grade B to Grade C1 and new instructions had to be sought from the Deputy Minister. On October 17, 1963, he agreed that the punishment should be reduced to one month's suspension. Because there was no Supervisor in office for the District of Quebec at that time, the Regional Superintendent was instructed to impose the suspension, which he did on October 20, 1963.

The same day the pilot's legal counsel sent a telegram to the Superintendent of Pilotage in Ottawa protesting that his client had not been given the opportunity either to retain counsel in the investigation, or to submit written arguments before the suspension was ordered.

The question was discussed with the Law Branch of the Department and it was felt that the requirements of sec. 21 of the Quebec By-law in this regard might not have been complied with fully, but the fact that the case had been handled by the Regional Superintendent in the absence of a Supervisor would make no difference and that the requirements of the By-law in this regard had been complied with. After an exchange of telegrams between the Pilotage Authority and the pilot's counsel, it was agreed to afford the pilot an opportunity to submit his written remarks on the evidence gathered at the Preliminary Inquiry, a copy of which was furnished to the pilot's counsel November 6.

On November 15, 1963, the pilot's counsel wired the Deputy Minister declaring his intention to appeal by way of writ of *certiorari*. On November 18, the Department of Transport sought the legal advice of the Department of Justice. The pertinent part of the reply received on November 20, 1963, reads as follows:

"In view of the fact that there is no indication in your departmental files that the pilot had any opportunity to present his defence, either orally to the Supervisor or in writing to the Pilotage Authority, prior to the decision of the Pilotage Authority, to suspend the pilot for one month, it is very doubtful whether this order has any validity whatsoever.

I understand from Mr. Macgillivray that you are advising the solicitor for the pilot, that the decision to suspend the pilot is being deferred, pending further investigation."

In fact, on November 20, 1963, a telegram was sent to the pilot's counsel informing him that the suspension had been lifted to provide an opportunity for him to present a written argument.

On November 27, the petition for a writ of *certiorari* was served upon the Minister of Transport and the case was again referred to the Deputy Minister of Justice who, on December 11, 1963, advised, in substance, that the suspension awarded was of doubtful validity because it appeared that the pilot had not been afforded an opportunity to present his defence, and it was suggested that the case be settled by compromise, if at all possible.

However, no settlement was arrived at for quite some time. In the meantime, a Montreal pilot sought the issuance of another writ of *certiorari* to have a disciplinary sentence against him quashed. On August 13, 1964, the Department of Justice again urged the Department of Transport to accept the compromise rather than go to court. The proposed compromise was that the two pilots would desist from their *certiorari* proceedings upon withdrawal of the complaints if there was assurance from the Pilotage Authority that no further proceedings would ensue out of the same facts and that the suspensions imposed would be cancelled. A settlement was arrived at and the court and disciplinary proceedings were dropped. In the end, because of faulty disciplinary procedure the Pilotage Authority was incapable of enforcing discipline.

(d) *M.V. Irvingstream* case

This is the first time the device of a Court of Inquiry under sec. 579 was used (i) to enforce discipline, (ii) as a penal tribunal for the trial of a By-law offence, and (iii) where no distinction was made between the Pilotage Authority and the Minister of Transport.

In the terms of reference of the Court, the statement of the case was drafted as follows:

"It is alleged that on Sunday, November 25th, 1962, Mr. \_\_\_\_\_ on duty as pilot on the *M.V. Irvingstream*, in Quebec Harbour, failed to exercise due care and diligence for the safe conduct of the vessel under his charge, in that he failed so to pilot this said vessel so as to avoid her grounding, contrary to the provision of Section 18 of the By-law of the Pilotage Authority of Quebec."

The Court found that the cause of the casualty was lack of care and diligence on the part of the pilot while manœuvring the ship and the Inquiry Officer recommended:

- (i) that the pilot's licence be suspended for a period of 6 months;
- (ii) that he be issued a temporary licence valid for vessels not exceeding 2,000 tons net during the period his present licence is suspended;

- (iii) that he be re-examined by the Board of Examiners of the District in seamanship and local knowledge of the District because of his apparent incompetence in both subjects.

These recommendations were in part implemented by the Pilotage Authority: the pilot was suspended for a period of one month and was demoted to Grade B, not to be reinstated to Grade A before he had spent four months as Grade B and passed a new examination for competency.

(e) Case of pilot No. 70

(Part I, pp. 334 and 429)

The case of Quebec Pilot No. 70 (Ex. 711) is an illustration of the passive attitude of the Quebec Pilotage Authority toward instances of intoxication and habitual drinking, despite the excessive severity of the regulations it has made. The pilot's record shows the following (Part I, pp. 428-430):

1938, July 23—S.S. *Nordlys* grounding through error in judgment; severely reprimanded.

1939, September 29—grounding S.S. *Saganaga* on Beauport bank.

1948, May 23—missed his turn without any reason and was fined \$40.

1950, August 19—grounding S.S. *Harworth* in Saguenay River.

1951, April and July—fined \$20 for failing to report to the pilotage office after having been refused by the Master of the tug *Foundation Josephine*.

1952, July 26—grounding S.S. *Flynderborg* in the vicinity of Red Islet; no action was taken against the pilot on account of discrepancies in testimonies.

1952, October 10—missed turn at Father Point and the officer-in-charge reported that there was a very strong smell of alcohol and that the pilot was not fit to pilot a ship; suspended up to October 31 and warned that a repetition would result in the cancellation of his licence.

1955, July 22—report received by radio from S.S. *Gloriana* advising that a pilot had come on board drunk and had left the bridge. The pilot was suspended from duty and ordered to appear before a physician which he failed to do. No action was taken to force him to comply with the order and the suspension remained in effect until April 9 the following year after he finally complied, was medically examined and found fit for duty.

1956, April 18—he was allegedly found in a drunken condition on board the tug S.S. *Foundation Josephine*.

1956, April 22—refused on board S.S. *Sea Transporter* because he appeared to be under the influence of intoxicating liquor. This last instance was apparently a clear case of drunkenness and it was recommended that his licence be cancelled. Instead, despite the mandatory requirements of sec. 49 of the Quebec By-law that the licence in such a case be cancelled, he was given "a severe warning". By order of the Pilotage Authority he was reinstated on the assignment list on June 13 after having been off the list since April 23.

1956, July 3—called for duty but reported sick and, therefore, again taken off the assignment list. On July 4, since he was still absent, he was ordered to pass a medical examination before a physician of the Department but he failed to comply and, instead, on July 28, he filed a medical certificate supplied by his own doctor. On October 26, not having returned to duty he was again ordered to pass a medical examination and again he failed to comply. No disciplinary action was taken for his absences without leave or his failure to comply with orders.



1957, January 30—ordered to report for duty at the opening of navigation and was warned that at the first recurrence of being in trouble through drinking or temperamental instability, his licence would be cancelled.

1957, April 15—involved in the grounding of S.S. *Lubrolake* near Pointe Agonie with resulting damage to the ship of about \$95,000. On July 12, it was found that the pilot had shown questionable skill on that occasion and he was informed that his record was being duly noted.

1957, June 27—missed his turn for no good reason and was fined \$40.

1959, May 8—prevented by the despatching clerk from boarding a ship, reported under the influence of liquor and suspended from the assignment list pursuant to sec. 49 of the Quebec By-law. The charge of drunkenness while about to proceed on duty was investigated informally by the Quebec Advisory Committee (p. 217) and the pilot attended the proceedings. The Committee's finding was that the complaint was justified and, in view of the pilot's damaging conduct sheet, it recommended, with one dissenting vote, that his licence be cancelled, first, in view of the terms of the By-law and second, on the ground of unsuitability.

On the basis of this report and in view of the pilot's past record, the Pilotage Authority withdrew his licence. However, the pilot, through a legal adviser, registered a strong plea with the Pilotage Authority which resulted in the case being heard *de novo* by a Court of Inquiry convened by the Minister of Transport under sec. 579 C.S.A. The inquiry was held almost a year after the committee's report, i.e., April 22, 1960 (Ex. 1317). The finding was that the charge had not been proven. The Court came to this different conclusion apparently because the witnesses had changed their testimony (vide Part I, p. 334). This was one of the cases which brought about the demise of the Quebec Advisory Committee. On May 9, 1960, his licence was reinstated and he was classified as a Class B pilot.

November 30, 1961—fined \$40 for leaving Les Escoumins pilotage station without permission after his turn.

August 31, 1963—the final incident occurred at Les Escoumins when, after changing his turn twice, he refused to board a ship without giving any reason. He was then taken off the assignment list and ordered to report at the Quebec station to the District Supervisor, which he failed to do. However, no charge was laid on either ground. Nineteen days later, he reported by telephone that he was ill. Later, he forwarded, not to the District Supervisor but to the Pilots' Corporation, a medical certificate signed by his own physician. He was then informed that he would not be reinstated on the tour de rôle until he had undergone a new medical examination conducted by an officer of the Department of National Health and Welfare. Eventually, he appeared for the examination and on May 26, 1964, the psychiatric examination found "there is no hope that continuation of treatment, or even another order of therapy will ever permit \_\_\_\_\_ to go back to regular work. It is very clear now that he hates pilotage, one may declare him at this time as definitely incapacitated."

In accordance with this report, the pilot was compulsorily retired on medical grounds as of June 9, 1964, under subsec. 23(4) of the Quebec District General By-law (Ex. 1461(e)).

The Pilotage Authority contends that up to that time there were insufficient grounds to warrant withdrawing his licence.

(f) Case of ex-pilot J. Patrice Drapeau  
(Ex. 1311 and Part I, pp. 369 and 429)

In 1955, the Quebec Pilotage Authority cancelled the licence of pilot J. Patrice Drapeau as a disciplinary measure following an alleged recurrence of a drunkenness offence. On December 5, 1962, ex-pilot Drapeau wrote this Commission seeking a redress of wrong. This was the last of his many attempts to have his licence reinstated. Although it is not within the jurisdiction of this Commission to grant such redress, it is worth examining the case because it is a typical example of the way cases of impairment due to detrimental habits have been dealt with.

In his petition for redress, ex-pilot Drapeau stated that except for a three-year period during the war when he served in the merchant navy he was a licensed pilot for the District of Quebec from March 1929, until June 1955, when his licence was cancelled. He claimed that it was erroneously held that his failure to report to duty had been due to drunkenness. He claimed that he succeeded in having his case reviewed through the efforts of a Member of Parliament. He was told later that the inquiry had been held and that his dismissal had been found warranted. He charged that the inquiry was conducted in secrecy, that the provisions of sec. 49 of the then existing Quebec By-law were not followed, in that he was not notified of the date and place of the inquiry, or of the charge laid against him, and was never given an opportunity to engage counsel and defend himself properly. An added consequence of his dismissal was that he was refused his pension by the administrators of the Pension Fund, the 1860 Quebec Pilots' Corporation, before he reached the age of 65 because in the pension regulations the cause of his dismissal is a bar to an immediate pension (p. 500). He has drawn his pension benefits since 1967.

His pilot's record shows that since 1937 he was repeatedly fined and suspended and that his licence was even cancelled on August 11, 1941, because he would have missed his turn on account of impairment due to alcohol. He was reinstated on April 28, 1945, following a recommendation by the Pilots' Committee on the condition that he behave properly. One year later, he again missed a turn; in 1949, he was reprimanded for having taken intoxicating liquor; on May 15, 1952, he again could not take his turn on account of indulgence in alcohol. Once more the Pilots' Committee recommended leniency and he was given a further chance but was warned that this was the last time. However, he was later fined twice for refusing or missing his turn without a valid reason. On June 2, 1955, he again lost his turn, allegedly on account of drunkenness, and this time his licence was definitely cancelled. It appears that no charge was laid, there was no formal trial, not even a Court of Inquiry as provided under sec. 49 of the then By-law. The Pilotage Authority simply had made use of its alleged power to withdraw a licence on whatever evidence it deemed sufficient.

Answering a query from this Commission on July 28, 1965, the Pilotage Authority stated that in fact no Court of Inquiry was held under sec. 49 of the former By-law, that action was taken on the basis of reports from the local Superintendent after pilot Drapeau had been given the opportunity to present his own version of the latest incidence, which was not deemed satisfactory. Sec. 51 of the former By-law provided that the licence of any pilot found to have consumed intoxicating liquor when on duty or about to go on duty had to be withdrawn. The Pilotage Authority was convinced that on this latest occasion pilot Drapeau, after due warning in 1952, had again contravened the By-law provisions.

Since then, ex-pilot Drapeau has used every available means, except legal proceedings, to have his licence reinstated, but to no avail.

#### COMMENTS

It is possible that, if he had taken legal proceedings when his licence was last cancelled, he would have been successful on technical grounds and that the Pilotage Authority would have been then obliged to resort to the correct procedure, i.e., give him a trial. However, it must be emphasized that this Commission is in no position even to suggest what might have been the outcome of such a trial because it does not possess the full facts of the 1955 case which was beyond its mandate.

Nevertheless, the situation revealed by this pilot's record and the handling of the 1955 alleged offence are indictments against the pilotage administration. They show a passive attitude on the part of the Pilotage Authority and leniency where there should be none because safety is at stake. If this pilot was addicted to alcohol (as his previous record would indicate), he should have been considered a safety risk as early as 1940. A habitual drinker is a safety risk which allows no margin for compassionate grounds. His licence should not have been reinstated in 1945, unless it had been clearly established either that the use of alcohol did not impair his efficiency or, if it had done so in the past, that he had overcome his detrimental habit.

#### GENERAL REMARKS

The foregoing study of shipping casualties and disciplinary cases shows a most deplorable situation which adversely reflects on all the pilots of the District (despite the fact that only a few of their number are to blame) and which is allowed to continue, despite the efforts of the pilots as a group. The fundamental weakness lies in the Pilotage Authority's lack of adequate powers to take effective action because it is hampered by obsolete statutory legislation.

The Quebec pilots as a whole are a fine body of seamen, proud of their profession and most efficient in their duties. They are well aware that their reputation has suffered from the serious omissions and wrongdoings of a few



of their number, and, confronted with the general passive attitude of the Pilotage Authority and its inability to handle the situation, they have done their utmost to raise their standard of competency and *expertise*. They are to be complimented on their initiatives which have resulted in the adoption by the Pilotage Authority of long overdue reforms.

By definition, a pilot is a fully qualified mariner capable of handling and navigating any vessel that enters, or may enter, his District. He is an expert in local waters and is trustworthy beyond question. The pilot must live up to these standards and, therefore, must accept the duties, responsibilities and consequences inherent in his status. Then and then only, can he expect and demand to be treated accordingly. In the anonymity of a controlled and fully directed pilotage service, the failings of a few pilots adversely affect the efficiency and reliability of the service and mar the reputation of the whole group.

The Quebec District pilots are painfully aware of this fact. They have reacted to the limit of their capability but two serious deficiencies prevent a successful organization: the Pilotage Authority lacks appropriate powers to administer and direct pilotage; and the Authority has become passive, partly because of its remoteness and policy of centralization, and partly as a result of the adverse decisions it received in the courts when it tried to live up to its responsibilities and found it lacked the legal means to do so. This has led to a policy of non-involvement at all levels which has prevented the Pilotage Authority and its officers from making the most of the limited powers it legally had. However, it should be noted that the use by the Pilotage Authority of these limited powers, accompanied by positive action and firm control, would have been sufficient to effect the timely retirement of the few who had long been safety risks and who eventually became responsible for the most serious casualties.

The state of affairs disclosed by this study of the shipping casualties and disciplinary cases in the Quebec District (and in other Districts as well) shows the necessity for reform in depth leading to increased powers for the Pilotage Authority over the professional competency and physical and moral fitness of pilots.

It is considered that Pilotage Authorities would have the necessary powers if the Commission's General Recommendations, especially Nos. 26-37, are implemented.

## 5. PILOTAGE OPERATIONS

### (1) PILOT STATIONS AND PILOT BOARDING STATIONS

Since the Quebec Pilotage District is the first of a series of contiguous Pilotage Districts along the St. Lawrence-Great Lakes water route, *pilot boarding stations* had to be established at both ends of the District on the

River St. Lawrence: Les Escoumins in the east and Quebec in the west. In addition, pilots may board vessels upon request at any point within the District and, at times, under special circumstances even outside the District. Similarly, they disembark when their vessel reaches its destination anywhere inside the District or, if bound to a destination outside the District, when they reach the boarding station at the limit of the District and, under special circumstances, outside the District.

The two *pilot stations* are also situated at Les Escoumins and Quebec. Although Port Alfred on the Saguenay River is often referred to as a pilot station, e.g., in the Despatching Rules, it is not one in fact because there is no accommodation for pilots, no office for the Pilotage Authority and despatching is effected from the Quebec station to which the pilots must report either by telephone or telegram when they arrive at Port Alfred (Ex. 1461(k)). All other points where pilots board or disembark are served from either Les Escoumins or Quebec (for further details, vide pp. 433 and ff.). In view of the fact that the harbour of Quebec is situated in the Districts of both Quebec and Montreal, one being the continuation of the other, the Quebec pilot station and its boarding facilities are used to accommodate the pilots of both Districts.

As seen previously (p. 26), there was a time when, in addition to Quebec, two boarding stations were provided downstream, one at Coudres Island and the seaward station at Bic Island. The intermediate station on Coudres Island was in operation only briefly. At that time, the pilots had to remain throughout the navigation season at Bic Island when they were not on assignment, and were not allowed to stay in Quebec more than a certain number of days, except at the request of the Master of a ship. When they were off duty they had to return to the seaward station and cruise constantly in the boarding area to offer their services. This procedure was changed after 1860 when the Corporation of Pilots took over the administration of the Bic station, provided pilot schooners and organized despatching. During that period the pilots generally lived on board the four pilot schooners. In 1905, when the Minister of Marine became Pilotage Authority, the pilot station was moved eastward to Father Point, still on the south side of the River because there was more sea room for steamers to manoeuvre. Since this area was too exposed for the pilot schooners, they were replaced by pilot steamboats provided for the Pilotage Authority by the Department of Marine without charge to the pilots, who then, however, found themselves obliged to dispose of their four schooners. The seaward station remained at Father Point until 1960 when it was transferred to its present location at Les Escoumins on the north shore, some 37 miles upstream. Because despatching can now be planned ahead through the E.T.A. requirement made possible by radio communications, the pilots do not have to remain at any pilot station when off duty, provided they are always available for assignment at reasonable notice.

(a) *Les Escoumins Pilot Station*

Moving the station from Father Point to Les Escoumins was the result of long discussions and negotiations between all the parties concerned dating from about 1955. It was done despite the objections of a minority of the pilots but remained a point of contention for a long time. Indeed, pilot Koenig is still neither convinced nor satisfied. In his brief (Ex. 571) two of the five topics he deals with concern this matter; he still argues that "the transfer to the north shore presents no advantages whatever", that the south shore harbour of St-Simon should have been chosen and that the Department of Transport's motives were not in the best interests of the service. He claims that Les Escoumins was selected to benefit the Department in that some of the financial obligations the Department had incurred on behalf of the pilots were thereby obviated.

The transfer of the station to the north shore was bound to happen once the decision to favour the north channel was taken in 1934. Previously, the south channel was the main one and a south shore location for the boarding station was normal but after 1934 this was no longer so because it meant that vessels had to detour to the south shore boarding station at Father Point where the River is over 20 miles wide. At that time, the main objection to establishing a station on the north shore was that it had to be located outside the restricted waters off the estuary of the Saguenay River where land communications were almost non-existent. However, the construction of good roads and the provision of bus service removed the principal argument in favour of a south shore station.

The question of moving the station was raised by the pilots themselves and those in favour circulated petitions and made representations to the Authority in Ottawa. The Department of Transport wrote to all the pilots asking their opinion of the proposed change. The Department was criticized for not dealing with the Pilots' Committee but individual pilots sent in their comments. It was not clear whether the majority wanted a change but the Pilots' Committee at the time succeeded in convincing a large number and the Department was informed that the majority concurred. However, in view of the strong opposition of one group, the move was delayed considerably.

On February 12, 1958, 26 pilots, including pilot Koenig, wrote to the Minister of Transport protesting against establishing a pilot station on the north shore at Cap Bon Désir which, they said, had been requested by the Directors of the Association who, in their opinion, did not represent the views of all the pilots. They acknowledged the feasibility of moving the pilotage station upriver but insisted that it should remain on the south shore. They agreed that the lower part of the River presented no special hazards to navigation and that moving the boarding station nearer Quebec would improve their working conditions and shorten their trips. However, they voiced their objections against a north shore station and pointed out that



excellent sites existed on the south shore, e.g., Trois-Pistoles, situated 40 miles west of Father Point, which was easily accessible by train, bus and automobile, and where there was good hotel accommodation as well. On the other hand, Cap Bon Désir (6 miles east of Les Escoumains Bay) was not accessible by train, was difficult to reach by bus or car and provided no accommodation. As far as safety of navigation was concerned, they noted the inconvenience created by frequent fog, strong currents and neighbouring shoals (Ex. 598).

However, in a letter dated March 16, 1958, pilot Koenig wrote to the Secretary of the Pilots' Association informing him that he had changed his mind. He explained that when he signed the joint letter he had not been in possession of all the pertinent information and he charged that some of the pilots who had signed had done so for personal reasons rather than in the common interest of the pilots (Ex. 599). In his testimony, he added that he had been the victim of false pretenses, that communications on the north shore were fairly good, that his signature was sought by letter when he was in Montreal engaged in his other occupation as Director of the Marine School, that he had been led to believe that the south shore site would be St-Simon and not Trois-Pistoles, and that when he found that the document the others had signed favoured Trois-Pistoles he withdrew his opposition to Cap Bon Désir which was a better site than Trois-Pistoles if St-Simon had no chance. At the time of his testimony pilot Koenig certainly did not remember the facts in detail at that later date. In the preamble of the petition Trois-Pistoles was the recommended site, pilot Koenig's signature appears on the petition itself (and not on a separate document) and a post-scriptum added to the petition itself and bearing only pilot Koenig's signature reads:

"Failing Trois-Pistoles, the government wharf at St-Simon would make a satisfactory Pilotage station. St-Simon would also prove to be less onerous to the taxpayers." (sgd. M. Koenig) (Ex. 595).

When the Seaway opened in 1959 the pilots' workload increased considerably. That same year three pilots died and six or seven others were said to have been seriously ill (p. 453). Pilot Rousseau was of the opinion that these illnesses were due to overwork. Their general performance when faced with this increased workload was very good and they were congratulated by the Deputy Minister of Transport. However, knowing that traffic would not decrease and, on the other hand, feeling certain that the Pilotage Authority would not favour an increase in strength, the only way they could improve their working conditions was to decide on a new location for the pilot station.

The question was raised at the general meeting of the Association held January 13, 1960. After the advantages and the disadvantages of the various sites had been discussed, a secret vote was taken and the result was 34 in favour of a north shore location, 28 in favour of a south shore location and 1 for Father Point (Ex. 600).

In view of the majority decision, the Board of Directors communicated with the Pilotage Authority seeking co-operation. On January 25, 1960, the Deputy Minister in a letter to the Pilots' Committee stated that he had written a circular letter to each pilot and that he had received a number of replies, the majority of which indicated a preference for a site on the north shore in the vicinity of Les Escoumins. He asked the Pilots' Committee to express their opinion as the representatives of the pilots as a group (Ex. 688).

Later, the Pilots' Committee met with the Minister of Transport, the Hon. George Hees, and after much discussion it was decided to give everyone an opportunity to state his views by forming a committee to study the question thoroughly.

In a bulletin addressed to all the pilots, dated March 30, 1960, the President of the Pilots' Association brought them up to date on the situation. Annexed to the bulletin was a copy of a letter received from the Minister, dated March 24, 1960, in which the Minister acknowledged having received telegrams from pilots in favour of moving the station, and stated that in view of the expressed decision of the majority of the pilots "the Department will carry out its normal obligations under the Canada Shipping Act and the by-laws in regard to pilots" by providing the necessary services, including a pilot vessel to allow the pilots to operate from Les Escoumins. This, however, was to be a temporary move only pending the selection of a final site for which he proposed the formation of a committee composed of representatives of the Department of Transport, the Department of Public Works, and the pilots, with the Director of Marine Regulations as chairman. With reference to the Father Point pilot station, he added that, if a sufficient number of dissident pilots wished to remain there, the station would be maintained for despatching during 1960. In the bulletin the President of the Pilots' Association pointed out that moving the station to Les Escoumins meant a decrease of 40 miles per trip with a resultant improvement in their working conditions. He hoped that those who still were not in favour would rally to the majority choice (Ex. 688).

The committee was formed with three representatives from the Department of Public Works, two from the Department of Transport and two pilots chosen from the Board of Directors. The committee visited various sites including Les Escoumins and Trois-Pistoles, and unanimously chose Anse aux Basques near Les Escoumins. A report to that effect dated June 2, 1960 (Ex. 689) was made to the Department of Transport.

On May 31, 1960, a visit was paid to the possible sites: Anse aux Basques, Black Cove, Les Escoumins Bay, Les Escoumins wharf all situated on the north shore, and Trois-Pistoles on the south shore. Black Cove was eliminated for lack of shelter, shallow water and excessive construction costs. Les Escoumins wharf was also discarded for lack of shelter, difficult construc-

tion, excessive costs and silting. Les Escoumains Bay was rejected because the cost of capital and maintenance dredging for an approach channel would be excessive, also lack of shelter and the fact that the bay froze over during the winter. Trois-Pistoles was unsatisfactory because a long wharf would be required and maintenance costs would be excessive on account of exposure to ice and sea. Fog and ice conditions there were as bad as at Father Point and the 30-foot contour line of shallow water, beyond which most ships would have to remain while embarking a pilot, was situated three miles off shore so that the pilot vessel would have to go out at least three miles to embark and disembark the pilots. On the other hand, Anse aux Basques was chosen for its good shelter, the width of the cove and its deep water and because it was an ideal site for the construction of an office with a clear view in all directions.

By then only a few pilots were still against the move and apparently most of these had some personal interest in staying on the south shore. They protested by letter and tried to have Trois-Pistoles selected. One of the reasons advanced in favour of the south shore was the good train service available.

Acting on the report, the Department transferred the station to Les Escoumins wharf for a trial period and, on August 16, 1960, the Minister of Transport wrote to the President of the Pilots' Corporation pointing out that the experiment had proved successful and that Les Escoumins was a better site than Father Point as far as fog was concerned. He added that he agreed with the result of the survey carried out by the committee, that he had approved the choice of Anse aux Basques (now referred to as Les Escoumins) and that consequently he had asked the Department of Public Works to proceed with the necessary work with the least possible delay.

The news of the change was received favourably by most of the pilots but one pilot who lived at Father Point resigned.

According to the Department of Transport, the factors that militated in favour of the move were the following:

- (i) A north shore location made navigation safer in that it did away with the necessity of criss-crossing the main stream of traffic to reach Father Point and to return to the North Channel. Trade was increasing between points on the north shore and ships engaged in this trade, such as large iron ore carriers, had to cross to the south shore to embark and disembark their pilots. Since the South Channel had been abandoned in favour of the North Channel, Les Escoumins was on the normal direct route followed by ocean-going vessels.
- (ii) Locating the pilot station at Les Escoumins shortened each pilotage trip by some 37 miles and thus helped improve the pilots' workload and their working conditions.



- (iii) The incidence of fog and ice was not as great on the north shore. The Father Point station had to be closed during the winter and the pilots were obliged to board upbound vessels in various ports outside, the District (for a similar occurrence vide p. 441). Even during the fall, so much ice sometimes accumulated that the pilot vessel was held up off Father Point and icebreakers had to be used instead at White Island or Red Islet. Les Escoumins has proved to be much more satisfactory in that respect and, in fact, the station has remained open the year round ever since the move in 1960.
- (iv) Weather and sea conditions in the vicinity of the new station were so much better that smaller pilot boats could be used, thus effecting a substantial saving (pp. 421 and ff. and Part I, pp. 683 and 684). While bad weather does occur at Les Escoumins, it is neither as frequent nor as severe as off Father Point.

Pilot Koenig, who first signed a petition in favour of Trois-Pistoles, then rallied to the group favouring a northern site only to disassociate himself again some time later in favour of St.-Simon on the south shore, expressed the opinion that Les Escoumins is dangerous and confusing in that ships in the vicinity of the boarding station meet on either side of the channel. According to the rules for narrow channels<sup>8</sup> they *ought to* meet port to port, but at the pilot station they do not necessarily have to comply with the rules although this is their usual practice. They do not know until the last minute what the oncoming ship will do and, in his opinion, this might prove dangerous especially if there are more than two ships involved and the weather is hazy. He conceded that since the station has been moved there have been no accidents due to this cause but he maintained there have been a few very near misses.

In his annual report to the pilots in January 1961 (Ex. 683) their President mentioned that the experience of one year at Les Escoumins had demonstrated that the move had brought about a noticeable improvement in the pilots' working conditions even though the station was not yet completed; the pilotage distance had been shortened considerably, resulting in fewer working hours per trip, the weather was so much better at the new location that the Authority had decided to keep the station open throughout the winter; the transfer of pilots from one station to the other had been reduced from 1525 to 1227, i.e., a decrease of 298 with no night travel; land communications were being improved by the addition of one bus service per day; construction of the pilotage station at Anse aux Basques was about to start.

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<sup>8</sup>It is considered that the channel off Les Escoumins can not be termed a "narrow channel" (Rule 25 of the International Regulations for the Prevention of Collisions at Sea) any more than the area east of Coudres Island which was found not be to a "narrow channel" by the judgment in the case of the collision between SS *Leecliffe Hall* and M.V. *Apollonia* (p. 371).

Despite the assurance given to the pilots by the Minister in 1960 about the construction of the wharf and the pilot station at Anse aux Basques, the new station did not come into operation until October 23, 1964. The main delay was caused by the Federal Government's austerity programme.

The pilots repeatedly protested against this state of affairs. On October 4, 1961, the Deputy Minister replied to a letter dated September 26, 1961, pointing out that works of this importance take time to prepare, that even the wharf was not expected to be completed before October 1962, and that a temporary wharf at Anse aux Basques would be provided immediately (Ex. 692). In his annual report to the pilots in January 1962 (Ex. 683), their President said that work had begun, that the wharf was to be completed by September, but that the office building had not yet been started. He stated that the Department had first ruled there would not be any sleeping accommodation at the pilot station and that free transportation service would be provided from hotels but later decided that sleeping accommodation consisting of at least five rooms would be provided at the site. However, the Department reversed its decision and when the building was completed in 1964 neither sleeping accommodation nor free transportation was provided.

The original estimates for the construction of the Anse aux Basques installation (Les Escoumins pilot station) was \$401,157; the total cost including incidentals amounted to \$597,186.27 (Ex. 1461(u)).

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Building .....	\$ 37,899.12
Land .....	850.00
Wharf .....	401,156.75
Ladders on wharf .....	6,500.00
Transmission lines .....	2,000.00
Road lighting .....	9,600.00
Waterworks .....	59,634.00
Inspection fees (paid to D.P.W.) .....	16,177.12
Access road to wharf .....	40,547.20
Consultants' fees .....	14,853.38
Miscellaneous .....	7,968.70
Total .....	<u>\$597,186.27</u>

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The pilot station is a two-storey building with a work-shop and store-room for the pilot boats on the first floor and on the second the despatching room, equipped with radiotelephones and teletypes, the office of the officer-in-charge and the pilots' waiting room. The building is situated two hundred feet above water level and provides a clear view over the boarding area.

The Department of Transport made arrangements with a bus company to transport the pilots between Quebec and Les Escoumins, twice daily, and provided taxis in case of emergency, at a cost of \$5.50 per trip per person. On the other hand, the Pilots' Corporation made arrangement with the taxi

owners at Les Escoumins to provide transportation between the village and the wharf at 50¢ per trip for one passenger and 25¢ extra fare for each additional passenger. In 1963, the rates for hotel accommodation were:

Room .....	\$ 2.00
Breakfast .....	.25
Lunch .....	1.50
Dinner .....	1.50
<hr/>	
Total per day .....	\$ 5.25

When the Anse aux Basques site became operational, the Pilots' Corporation studied the question of building a pilots' lodging or shelter nearby. Architects were consulted and three different plans were drawn up but when the pilots were consulted they could not agree and the project was abandoned. Construction costs would have been substantial and some pilots preferred to continue using hotels.

However, some pilots did not wait for the Corporation to act. Under an independent partnership agreement they bought a number of trailers about 50 feet in length at a cost of \$7,000 to \$9,000 per unit, each of which accommodates three or four persons comfortably.

Furthermore, a motel was built near the pilot station. Most pilots stay there and avoid the necessity of travelling by taxi from Les Escoumins. The taxi service still leaves a lot to be desired especially at night (Ex. 1454).

At Les Escoumins pilot station the personnel establishment is that of a sub-pilot station. The staff (not counting the pilot vessel crew) is composed of one officer-in-charge (referred to as Supervisor of Pilots) and four clerks. Until recently, the clerks were employed on a part-time basis, i.e., for the whole summer and during the winter one at a time for one week in turn. Now, like the Supervisor, the clerks are being employed on a full time basis (Ex. 1461(w)).

Until recently, the station was operated on a 24-hour basis from April 1 to December 31 but during the winter months it was manned from 9:00 a.m. to 5:00 p.m. only, Monday to Friday inclusive, unless vessels required pilot service at night or during weekends, in which case the station remained open to serve them. During the winter season of 1964-65, 55 vessels out of a total of 85 were handled during the off-duty period (Ex. 1454). The station is now operated on a continuous basis the year round (Ex. 1538(h)).

As seen earlier, the description of the eastern limit of the District does not coincide with its actual location and legally the District still extends to Father Point, despite the fact that no pilotage is performed east of Les Escoumins. Sec. 5 of Schedule A to the General By-law still provides for a \$20 pilot boat charge when a pilot vessel is used off Father Point, as well as "at any pilot station that may from time to time be established in substitution for Father Point" (P.C. 1959-1605).



One recommendation to improve the efficiency of operations at Les Escoumins was to establish pilotage grounds. The pilots recommended a restricted embarkation zone outside Anse aux Basques, which would be off-limits to ships not taking pilots (especially small coasting vessels that constantly use that area to the danger of larger vessels) and which would be used exclusively to embark and disembark pilots (Pilots' Brief, par. 618). They suggested these pilotage grounds should be an area with a radius of a mile and a half using the wharf at the pilot station as centre and the limits shown on C.H.S. charts.

This recommendation has since been partly implemented. C.H.S. charts 1204 and 1211 now show immediately off Les Escoumins pilot station an area delineated by pecked lines marked "Pilot Boarding area" extending some  $2\frac{1}{2}$  miles by  $4\frac{1}{2}$  miles. This offshore amendment to the charts was brought to the attention of shipping through Notice to Mariners 772 of 1966. It was hoped that this would suffice to persuade vessels not taking pilots to pass outside the zone so delineated without having to make it a restricted zone (Ex.1538(i)).

#### *(b) Quebec City Pilot Station*

Although the harbour of Quebec is the joint territory of the two adjacent Districts of Quebec and Montreal, the pilotage operations performed there by the pilots of each District are of a different nature. The harbour belongs primarily to the Quebec Pilotage District but is used by the Montreal pilots to disembark from ships in transit or calling at Quebec downbound and to board ships proceeding upstream to Montreal. Originally, when there was a separate Pilotage Authority for each of the two Pilotage Districts, a separate pilot station was maintained in Quebec by each Authority. When the Minister became the Pilotage Authority for both Districts in 1905 and his Department assumed the full cost of the pilot stations, there was no reason why only one pilot station would not suffice to administer and accommodate the pilots of both Districts. However, it took many years before they were integrated both for accommodation and administration under the Quebec District Supervisor. His responsibilities as far as the Montreal pilots are concerned are to despatch them and provide them with facilities while they wait for assignments.

During recent years a point of contention was the abolition of the dormitories at the pilot station which provided separate quarters for the Montreal and Quebec pilots.

These dormitories had been available for a great number of years, probably ever since the pilots directed the pilotage service through their Corporation. Retired Supervisor Hamel recalled that in 1916 these sleeping quarters consisted of some 18 beds for the pilots of each District and that they were in regular use until he left the service in 1961. Even the pilots who

lived in Quebec took advantage of the dormitories when they had to embark at night. The despatcher would awaken them when their ships were approaching. Those who disembarked during the night often preferred to spend the rest of the night at the station and go home in the morning but those who were in Quebec for more than one night but did not live there usually went to a hotel. He, himself, thought the dormitories were very useful. When, for instance, a pilot had to wait on account of fog or other reasons he had a place to sleep and was rested when he took his assignment. He remarked that it is impossible to relax in a hotel when one is liable to be called at any moment. The dormitories were also used extensively by apprentices.

For many years, the Department tried to abolish them but the pilots succeeded in keeping them. In 1959, Captain Jones of the Department of Transport visited Quebec and mentioned the Department's intention to abolish the dormitories because they were no longer necessary. No other reason was given for this decision. Pilot Barras, then President of the Association, sought the support of the Shipping Federation and succeeded in having the dormitories retained. He mentioned that they were a great convenience for those who, like himself, lived in suburbs such as Lauzon across the River from Quebec. When he had to board a ship at night he used to report to the station and could rest. This was particularly important if the ship was delayed. Now he is called at least 10½ hours in advance and has to make himself available without knowing whether the ship will keep its E.T.A. or not. Once in 1962, he was called to pilot a ship expected to sail about midnight but after he went on board her departure was cancelled and he returned to the pilot station. Since his assignment had been cancelled, he dropped down to be second on turn in accordance with the despatching rules, but because no vessel was expected before morning he returned home—a trip of about an hour. When he arrived home he learned that the pilotage office had requested him to return immediately to take a ship, only to learn when he reached the office that he was being sent by bus to Port Alfred. He had spent the night travelling back and forth but if the dormitories had still existed he could have rested instead. He admitted that this was an unusual case but pointed out that the pilots are often called in the middle of the night and that ships are delayed for many reasons.

However, here again, there was no unanimity among the pilots and the Department of Transport had long since decided to close the dormitories. Similar facilities were discontinued in Montreal in 1956 and since then the pilots have tended to make less use of those in Quebec, although the apprentices have occasionally used them. The Department took the matter up with the Pilots' Committees of both Montreal and Quebec Districts because these facilities were being used by pilots of both Districts and both Committees agreed that it would be preferable for pilots and apprentices to make private

arrangements for accommodation. The dormitories were discontinued in the Quebec pilotage building on August 4, 1962, as part of the austerity programme with a consequent saving in the operational costs of the pilot station.

The Department of Transport was aware that a few pilots objected to closing the dormitories but neither the Department nor the Pilotage Authority received any formal complaint. Pilot Koenig complained that when he learnt about the matter it was already an accomplished fact. He argued that there was very little saving for the Department, that the pilots would have been quite willing to defray the small expense involved out of their own pockets if they had been informed in time. He raised the question at the next general meeting of the Corporation but there was little action that could be taken by then.

When this occurred, Captain Gendron, the Regional Superintendent, was in favour of closing the dormitories for he had lived in them when he was an apprentice pilot and he had seen them afterwards. They were not clean and furthermore, in his opinion, it was not proper to have sleeping quarters in pilotage offices.

#### COMMENTS

To move the seaward boarding station from Father Point to Les Escoumins was the only reasonable action as soon as reliable transportation became available on the north shore. The advantages were so great from many points of view—saving the pilots' time and improving their working conditions, enhancing the safety of navigation, reducing delays to ships and coordinating pilot station operations—that the Pilotage Authority would have been derelict in the performance of its duties if it had not moved the station even in the face of the pilots' opposition. One reason for the existence of a Pilotage Authority is the necessity to make decisions of this nature. It was wise, however, to proceed cautiously and obtain the pilots' support in order to avoid unnecessary recrimination. The delineation of an extensive boarding area was a further improvement.

The establishment of pilot stations is a matter of internal organization. The requirement is to ensure the availability of pilots when and where required at reasonable cost and with a minimum of inconvenience to all concerned (*vide* Part II, pp. 91 and ff.). The establishment of a pilot station at both ends of the District on the St. Lawrence River, with Les Escoumins subordinate to the main station in Quebec, is a realistic organization which fulfills the requirements of the service and also benefits the pilots who all reside in Quebec City and its immediate vicinity. This is also true for most of the Quebec-Trois-Rivières group of Montreal pilots.

However, a similar sub-station was not established at the end of the District on the Saguenay River in the Port Alfred/Chicoutimi area, and rightly so. The comparatively small demand for pilotage service in that area does not warrant the considerable expense of a pilot station.



It is considered that a joint pilot station for the Quebec and Montreal pilots in the vicinity of the common boarding area is a necessary feature because they serve contiguous Districts, but the powers, duties and responsibilities of the officer-in-charge in relation to the pilots of both Districts should be defined by legislation (vide Gen. Rec. 9, Part I, pp. 480 and ff.).

The question of dormitories at pilot stations should be determined in the light of local circumstances. The main criterion, i.e., availability in the vicinity of the station of adequate sleeping and boarding accommodation at reasonable rates, is met at both pilot stations. There is no longer any justification for maintaining sleeping quarters at the Quebec station because the pilots can easily make themselves available from their residence, even at short notice. Since the Traffic Control System was inaugurated, times of requirement can be ascertained with greater accuracy. Nor is there any need for sleeping quarters at Les Escoumins since the required accommodation can be obtained at reasonable rates at nearby hotels and motels.

## (2) INFORMATION REQUIRED BY PILOTS BEFORE EMBARKING

When boarding a ship and prior to taking charge of her navigation, a pilot should be fully acquainted with all the necessary factors that may affect her safe conduct:

- (a) the traffic and weather situation generally over the whole route, and in detail in the vicinity of the boarding station and within the first sector through which he is going to travel;
- (b) the ship's characteristics, peculiarities and conditions that would affect her handling, and the nature and effectiveness of her aids to navigation;
- (c) the ship's exact position when the pilot takes over.

There is no problem when time is not a pressing factor, e.g., in all cases when a pilot boards a ship at anchor or at a berth. He can learn basic details from the various sources of information at the pilot station and after embarking and before getting under weigh he can obtain at leisure the additional information required from the Master and the Control Centre. The ship's position presents no problem because it is within his personal knowledge.

The situation is quite different, however, when the pilot boards a ship under weigh either in the stream off the pilot station at Quebec or Three Rivers, or at sea off Les Escoumins pilot station.

Under existing arrangements, some information of the first type is available to pilots. As seen earlier (p. 182), they may obtain a general idea of the traffic by consulting the Traffic Control System's list of upbound and downbound vessels on the notice board at each pilot station. A general report on the weather situation in the various sectors can be obtained from a telephone recording revised every hour by the Montreal headquarters of the Traffic

Control System. More accurate information about the situation—especially in the immediate vicinity—can not be obtained until he has embarked and contacted the Control Centre by VHF.

Information about the ship's characteristics, peculiarities and condition which affect her navigation can only be obtained on board from the Master, or from the pilot being relieved if there is a changeover.

Accurate knowledge of the ship's position when the pilot takes over is an essential safety requirement. This is particularly true when boarding off Les Escoumins because a wrong, uncorrected course may mean disaster in the extremely varying current conditions off the entrance to the Saguenay River and in the neighbourhood of Red Islet. The most common cause for giving a wrong course in that area is an incorrect estimate by the pilot of his point of departure off Les Escoumins—this may be substantial in view of the width of the river. In poor visibility, the only immediate and accurate means a pilot has to fix the ship's position is radar and in case of radar failure the situation becomes serious.

There have been a number of casualties due to a wrong assumption by the pilot of the ship's position at that point, generally due to the pilot's own negligence. A pertinent example is the grounding of S.S. *Exiria*. For details, vide pp. 376 and ff.

The grounding of M.V. *Clara Clausen* in the vicinity of Les Escoumins on November 13, 1968, which resulted in her total loss, was indirectly caused by the fact that when the pilot boarded the ship he did not know, and could not ascertain, her position.

This most improbable casualty was due to a rare coincidence of circumstances. Although substantial blame could not be attached to anyone in particular, the accident was caused by the concurrence of the following factors:

- lack of advance information on the part of the pilot as to the condition of the ship and her aids to navigation;
- the pilot's inability to ascertain the ship's position;
- poor bridge procedure and discipline on the part of the pilot and the officers of the ship, compounded by language difficulties among the crew.

On November 13, 1968, M.V. *Clara Clausen* arrived light off Les Escoumins bound for Montreal. She was held off for several hours due to extremely bad weather which had caused suspension of the pilot vessel service. When the pilot finally boarded the vessel at 1750, conditions were still poor with a high wind and a blinding snow storm reducing visibility to less than a mile. As soon as he embarked the pilot took the urgent action then indicated, i.e., he gave a temporary course of 215 degrees with an engine order of full speed ahead, to bring the ship quickly away from the shore and

to obtain the necessary speed to maintain steerageway for a light ship in a high wind. He then proceeded to ascertain the ship's position by radar—the sole means available in poor visibility—only to learn that the set was out of order. Needing this vital information, he tried to obtain it from the pilot vessel through VHF radio. While doing so, he paid no attention to what was happening on the bridge until he suddenly sighted land ahead. Despite last minute manoeuvres he was unable to avoid the grounding which occurred one mile and a half upstream from the pilot station six minutes after he had boarded. What had happened when the pilot was not paying proper attention was that a sharp alteration of course to starboard had been applied by the wheelsman who, on account of language difficulties, misinterpreted an untimely reproach by the Second Officer on the subject of the pilot ladder which he mistook for a fresh helm order to starboard from the pilot and applied immediately, heading the ship straight to shore at full speed ahead. The Second Officer did not check the course of the ship since the Master was in charge. The pilot's orders had been transmitted to the wheelsman by the Master who, thereafter, momentarily left the bridge to give orders to the engine room, with the result that for a few minutes there was no one on the bridge paying attention to the way the pilot's orders were being carried out by the wheelsman.

The Court of Formal Inquiry (Ex.1538(m)) made the following recommendations:

"The Court believes that it would be of importance and certainly useful that pilots required to navigate ships up river between Les Escoumins and Quebec or Montreal, be made aware in advance of the particulars of the vessel which is entrusted to their care. It seems that, in the present state of affairs, informations are forwarded to Beaumont Station and are then relayed to the pilotage station of Les Escoumins, but that no definite system exists to make them known to pilots.

The Court recommends that regulations be enacted:

- 1) To request every ship's Master to give, before arrival at Les Escoumins, all necessary information concerning his vessel, in particular, her length, her present maximum draft, her speed and her navigational equipment;
- 2) To see that all those details are sent directly to the pilotage station;
- 3) To make them available, in a written form, to the pilot concerned."

#### COMMENTS

In this day and age of electronic communications it is incredible that the procedure for providing a pilot with the vital information he needs for conducting a ship to which he is assigned has not changed since the era of sailing ships.

Since pilotage in confined waters is based on visual observation of buoys, lights, landmarks and land features, vessels were formerly not navigated during poor visibility: until recently they anchored until there was at least minimum visibility and then proceeded at low speed and very cautiously.



Radar and radio beacons (and the DECCA System where it exists) have given navigators means of seeing electronically when visual observation is impossible. Hence, it is now the practice for modern ships to be navigated in confined waters, often at full speed, when visual observation is impaired or even nil. However, an essential prerequisite is that vessels must be fitted with the necessary equipment in efficient order.

When a pilot boards a ship in transit in adverse weather conditions, he is placed in the dangerous and unwarranted position of being obliged to navigate although her essential aids to navigation may be defective or inoperative without his knowledge and, at the same time, he is unaware of the exact state of traffic ahead. Some speed must be maintained to provide steerageway and, if speed drops in confined quarters close to shore, such as off the Quebec pilot station or in the Les Escoumins boarding area (especially when the situation is compounded by high winds with a light ship), it is imperative for the pilot to increase speed as soon as he embarks and keep off the shore. This action must be taken before he has time to ascertain from the Master the details he should know about the ship and her equipment and before he has time to contact the Control Centre to obtain up-to-the-minute weather and traffic information in the immediate vicinity.

In this day and age of progress and electronic achievements it is incredible that pilots still embark while under way without having full details about the ship, traffic and weather when all this information can so easily be obtained beforehand. This is a further example of the pilotage organization falling behind the times. The case of the *Clara Clausen* shows a disturbing lack of appreciation on the part of the Pilotage Authority and its staff of the Pilotage Authority's role and responsibility. Although the Les Escoumins despatching staff were aware that the ship's radar was not working, the information which was vital in the prevailing circumstances was not conveyed to the pilot.

It is considered that steps should be taken to give pilots the means to obtain before boarding all the information they need with regard to ships, traffic and weather conditions. It should be made a mandatory routine for pilots to call at the pilot station before proceeding to an assignment to a ship under weigh and for them to obtain there all necessary information to enable them to take charge immediately upon boarding. At the pilot station, the Supervisor should give the pilots in writing any information he and his staff may have gathered about ships to which they are assigned. They should also keep for the pilots' information an up-to-date record of safety warnings and Notices to Shipping still in effect which concern the District and an up-to-the-minute record of traffic and weather. The pilots should have at their disposal means to communicate direct from the pilot station to the Control Centre in order to obtain additional or more precise information.

Each pilot should also be required to contact by VHF radiotelephone the ship to which he is assigned at least half an hour in advance to obtain from the Master all necessary information, such as load condition, any defect in aids to navigation, engine and steering system, so that he is fully aware of the situation before boarding and can plan in advance the course of action to take. Thus he will be able to give his full attention to navigating the ship and be in a position to take the correct action when adverse conditions prevail.

Shore-to-ship communications between the pilot and the Master should be carried out through the VHF network. In order not to burden the sector frequency unnecessarily, a procedure similar to that adopted for ship-to-ship communications should be followed and a special frequency assigned. The pilot should obtain from the Control Centre through the sector frequency permission to contact the ship on the special frequency and the ship should return to the sector listening frequency as soon as communications with the pilot are complete (vide p. 190).

Since a ship's position off Les Escoumins is of prime importance, it is considered that an additional means of ascertaining it should be provided, e.g., establishing the necessary number of radio beacons in the vicinity. Even though a ship's radar may be in good working order, misinterpretation of the information provided is a common occurrence.

Human error is the main factor in shipping casualties. Whenever possible, reliable means should be provided to enable pilots to double check vital information, thereby reducing the chances of error.

The circumstances surrounding the grounding of *M.V. Clara Clausen* also show the necessity for strict bridge procedure and bridge discipline. It is not sufficient for a pilot to give the right orders, he must give them in simple, standard terms, clearly and loudly, he should personally make sure they have been understood by the bridge officer and the helmsman and are properly executed.

The Commission's Nautical Adviser, the late Captain J. S. Scott, was very disturbed over the lack of proper bridge procedure and discipline on the part of some pilots during survey trips he made in various Pilotage Districts for the Commission. The consequences of these weaknesses are compounded when, as it is often the case, there is also a language problem, generally with the helmsman. He commented as follows (Ex. 1538(s)):

"In the marine world, for centuries past, orders have been given loudly and clearly and repeated verbatim immediately by the recipient, in an equally clear manner.

It is a few years since I took any active part or interest in the routine of a ship's bridge aboard a vessel under way, and I must confess to being quite taken aback by the sloppy, inattentive way that orders are given (and repeated) in many instances, and also by some pilots.

I can not but wonder how many accidents have had their origin in the vague mumblings which seem to be part of today's informal standards on a ship's bridge."

### (3) PILOT VESSEL SERVICE

In the Quebec District, pilot vessels are required on a continuous basis at the two boarding stations only. At Les Escoumins the service is provided by the Department of Transport and at Quebec by an independent private contractor. Elsewhere in the District, a pilot boat is needed only occasionally, e.g., if a vessel has to anchor in such places as Ha Ha Bay, Chicoutimi or off Rimouski. In these cases, the agent normally makes arrangements for the pilot to embark or disembark.

Neither the Les Escoumins pilot vessels owned by the Department of Transport nor the privately owned Quebec pilot vessels are approved or licensed by the Quebec Pilotage Authority as required by sec. 364 C.S.A. (Part I, pp. 276 and ff.).

Prior to 1860, it was the responsibility of each individual pilot to provide his own vessel at the seaward boarding station and, because seaworthy vessels were expensive, pilots often ventured out in unsuitable craft and endangered their lives.

It is a matter of record that a great number were drowned. When the pilots were incorporated in 1860, one of the aims was to provide suitable pilot vessels for the pilots as a group. In 1905, when the Minister became the Pilotage Authority and the pilot station was moved from Bic to the unsheltered waters off Father Point, the Department of Marine took over the responsibility of providing the pilots with suitable pilot vessels at the Department's expense and this has been the situation at the seaward station ever since. Since pilots have always been required to offer their services and make themselves available, there were no pilot boat charges to ships either when the pilots provided their own pilot vessels or later when the Federal Government became responsible for this service in 1905. When the pilot station was moved that same year the Minister also undertook to relieve the pilots of any expense connected with pilot vessels.

It was not until 1959 (Ex. 1461(h)) that the normal dues were increased by a fee for pilot vessel service at the seaward station. The 1959 amendment to the By-law (P.C. 1959-1605, dated December 18, 1959) imposed on shipping a \$20 additional charge that was to be considered, for collection purposes only, as pilotage dues (By-law, sec. 9, and Schedule A, sec. 5). In fact this charge forms part of pilotage dues (Part I, pp. 182-184).

The first pilot vessel furnished by the Canadian Government was S.S. *Eureka*, which served until replaced in 1923 by C.G.S. *Jalobert*, which was in turn replaced in 1936 by C.G.S. *Citadelle*.

From 1960 to 1968, the situation regarding pilot vessels at the seaward station was as follows (Pilotage Authority's Annual Reports, Ex. 534):

- (a) In 1960, two pilot tenders were on station during the navigation season: C.G.S. *Citadelle*, Master and a crew of 27; C.G.S. *Abraham Martin*, Master and a crew of 6. *Citadelle* remained on



station all winter while *Abraham Martin* returned to Quebec for winter quarters December 2.

- (b) During the 1961 season, *Citadelle* and *Abraham Martin* were available throughout the season. On October 18, a new pilot vessel was added, C.G.S. *Canada Pilot Boat 9*, to replace C.G.S. *Citadelle* which returned to Quebec for the winter and to be turned over to Crown Assets Corporation.
- (c) During the 1962 season, C.G.S. *Abraham Martin* returned to station in April and remained until August 4 when she was transferred to the Quebec Marine Agency with her complete crew, and replaced by *Canada Pilot Boat 10* which had started operations May 20. *Canada Pilot Boat 9* stayed on station throughout the winter. After August 4, only *Canada Pilot Boats 9* and *10* remained. Each had a crew of three—Master, engineer and deckhand. Six crews were provided, working alternately according to schedule.
- (d) In 1963, *Canada Pilot Boat 9* remained on station throughout the navigation season and during the following winter. *Canada Pilot Boat 10* was laid up in Quebec from December 18, 1962, to April 10, 1963, but was available throughout the rest of the navigation season. The number of crews was reduced from 6 to 5 on April 1.
- (e) In 1964, the boarding station was again serviced by *Canada Pilot Boats 9* and *10*. *No. 10* remained on station throughout 1964 while *No. 9* wintered at Quebec and returned to station April 28. *Canada Pilot Boat 10* left the station December 12 to winter at Quebec.
- (f) From 1965 to 1968, the pattern was the same. Service was provided by the same two vessels, one of which remained on duty during the winter. It takes a total personnel of 13 to operate the pilot vessels; four launchmen, four engineers and five deckhands. Prior to 1965, there were five in each category, making a total of 15.

Prior to 1960, pilot vessel service was provided free of charge. During the period 1960-1968 inclusive, the revenue derived from pilot vessels was as follows (Ex. 534):

Year	No. of times pilot vessel service used	Total pilot vessel charges collected
1960.....	6,599	\$ 131,980.00
1961.....	6,738	134,760.00
1962.....	6,795	135,900.00
1963.....	6,798	135,960.00
1964.....	7,696	153,920.00
1965.....	8,073	161,460.00
1966.....	8,255	165,100.00
1967.....	7,940	158,800.00
1968.....	7,424	151,980.00

When boarding can not be effected at Les Escoumins due to stress of weather, Tadoussac is used. There are, however, cases of extremely adverse conditions that prevent boarding. From 1952 to 1964 inclusive, the number of pilots that could not be embarked or disembarked for these reasons were as follows:

(a) *At Father Point:*

1952 — 1

1953 to 1956 incl. — Nil

1957 — 5

1958 — 8

1959 — 4

(b) *At Les Escoumins:*

1960 — 2

1961 — *Citadelle* — 1

1962 — 13 pilots were taken outside the District, 10 because of *Canada Pilot Boat 9* and 3 because of *Citadelle*; in five cases, the pilot vessel was unable to transfer the pilot.

1963 — Nil

1964 — Nil

Later on, Mr. Maheux, who furnished these statistics, mentioned that there was possibly a mistake in that the three cases of the *Citadelle* in 1962 really belonged to 1961 because the *Citadelle* was no longer in service in 1962. In these three cases, failure to disembark the pilot was a question of convenience rather than inability to reach the vessel. It occurred at the end of the season when *Citadelle* was at Tadoussac. Three ships proceeded to Les Escoumins only to find that the pilot vessel was not there. Since they were bound for a Canadian port, they did not wait for the *Citadelle* but proceeded to their port of destination, Sydney, Chandler and Baie Comeau respectively.

The main point of contention in 1962 was the withdrawal of the *Citadelle* which both the pilots and the Shipping Federation opposed. One argument was that ships were less likely to be delayed when the *Citadelle* was in use because the pilots could remain aboard, which was not the case with a smaller pilot vessel. The change was first proposed in 1959 but was not implemented at that time on account of opposition from all quarters. However, it was effected after the pilot station was moved.

When the *Citadelle* was in service at Father Point the pilots could sleep aboard when they were due to embark at night and, furthermore, they were seldom prevented from embarking on account of bad weather, but after she was withdrawn the much smaller *Canada Pilot Boats 9* and *10* which replaced her could accommodate only a few pilots and were less able to face

rough weather. Pilot Barras recalled that in the fall of 1961 the two pilot vessels were unable to sail for two days because of bad weather, and finally they had to call on the *Abraham Martin*, which was then employed at Tadoussac on the construction of the Prince Shoal tower, to take pilots to vessels which had been waiting for up to 36 hours. *Citadelle* had sleeping quarters and could accommodate about 15 pilots and apprentices; meals were served on board without charge, a service that the Department had bound itself to provide when the station was moved from Bic to Father Point in 1905.

Experience showed that any inconvenience which resulted from the replacement of the pilot vessels was balanced by the advantages obtained.

Although it was an accepted practice for a number of pilots to be on board a pilot vessel, the pilots were well aware of the disasters at Saint John and Halifax when pilot vessels were sunk after a collision and many pilots lost their lives.

The distance between the pilot station and the boarding area is much less at Les Escoumins than at Father Point. An occasional ship does not approach closer than four miles while others come very near the shore but normally they embark the pilot about one mile or one mile and a half off shore. If a ship stops for a pilot four miles out, she is not asked to come any closer and the pilot vessel then has to go out that distance to embark the pilot.

*Citadelle* and *Abraham Martin* were replaced by the steelhulled *Canada Pilot Boats 9 and 10*. These vessels were not built especially for Les Escoumins but were intended as prototypes for seaward boarding areas such as those at Halifax and Saint John as well as Les Escoumins. Saint John experimented with this type of vessel but because of the special local conditions of strong, high tides, wind and weather a larger vessel was needed there and the Saint John pilots were eventually provided with the type of vessel they had always used. (Part III, p. 78). However, no objection to the new type's suitability was raised in Halifax and Sydney.

The reasons why *Citadelle* was replaced by a smaller vessel were her high cost and the fact that a vessel of her size was not necessary for the new boarding area. In the year 1960-61, *Citadelle* cost \$57,000 in fuel alone while the total expenses of one of the new pilot vessels (i.e., *No. 10*, the more expensive of the two) during the year 1963-64 amounted to \$50,000. The total cost of *Citadelle* in 1960-61 was \$228,000 while, in 1963-64, *No. 9* cost only \$48,000 despite increased operating costs between 1960-61 and 1963-64.

In 1960-61, the total cost for operating the two pilot vessels, *Citadelle* and *Abraham Martin*, amounted to \$256,000 while in 1963-64 the two new pilot vessels cost, in round figures, \$100,000, i.e., a saving that year of \$156,000 in spite of increased prices.



A second point of contention was the operating efficiency of the new type of pilot vessel. On March 10, 1959, the Supervisor of Pilots sent the Pilots' Association plans for a pilot vessel that the Department proposed to build as a replacement for *Abraham Martin*: a 67-foot boat which had been agreed upon at a meeting in Ottawa with Mr. A. Cumyn on February 11, 1959.

On March 11, 1959, the Supervisor of the Quebec District wrote to the Superintendent of Pilotage in Ottawa, returning the plans and stating they had the approval of the Board of Directors of the Quebec Pilots' Association. *Canada Pilot Boat 9* started operations at Les Escoumins October 18, 1961, and was followed May 20, 1962, by *Canada Pilot Boat 10*.

Pilot Rousseau stated that in 1962 the pilots were requested to send the Department their opinion of the performance of the new pilot vessels, that they told the Department they would need some time to study them and work with them and that during the next winter they would send the desired report. He stated that during the winter of 1963 the pilots reported to the Department, as requested, on the behaviour of the vessels in rough seas, commented on their size and other features and suggested that it would be an improvement if they were replaced by larger vessels. He added that to their surprise they were curtly told by the Department that handling pilot vessels was not their business.

However, the correspondence on the subject (Ex. 1320) shows the situation in a somewhat different light.

The pilots' letter dated January 31, 1963, does not indicate they were forwarding a report as the Department had requested but, on the contrary, conveyed the protests which the pilots made at the Annual General Meeting. They complained:

- (a) "These launches with square sterns are difficult to operate" in a stern sea.
- (b) They are "difficult, in view of their low draught, to operate when drawing alongside vessels".
- (c) Being equipped with only one generator "when there is the least trouble all the electrical equipment and the lighting cease to function" as happened several times during the previous season.
- (d) In case of a serious accident they would be difficult to keep afloat "if there were not sufficient pumps because they do not have double bottoms".

In conclusion, they recommended that one of these vessels be replaced by a larger one to ensure adequate service during bad wather, and also proposed that the plans of any new launch should first be submitted to them for suggestions.

The pilots' protest was transmitted to Ottawa by the Supervisor and on February 12, 1963, Captain Jones, Superintendent of Pilotage, wrote to the local Supervisor pointing out that the pilots' criticism did not agree with the observations received from their Supervisors in other ports where this type of vessel was being used. He added that the question of an additional generator would be studied but that it was out of the question to replace one of these vessels.

On February 25, 1963, the local Supervisor replied to the pilots conveying the gist of Captain Jones' remarks and expressing the Pilotage Authority's surprise that the pilots complained about the operational inefficiency of these vessels because it was not their concern.

Pilot Rousseau stated that upon receipt of this letter he was astounded and telephoned Headquarters in Ottawa. He was told there had been an error and received an apology. It is to be noted, however, that this incident had arisen because in their letter of January 31, 1963, the pilots failed to meet the Department's request and phrased their letter as a protest rather than a report.

The Department admitted that better vessels could possibly be built for service at Les Escoumins but reported on November 26, 1965 (Ex. 1461 (m)) "these two boats are doing the job very well" and there is no intention of replacing them. It was pointed out that during the preceding 15 months of operation pilot vessel service had been suspended for a total period of only seven hours. Additional generators had been installed and the system of cooling the main engines in both vessels was replaced by a system to ensure they would operate in ice without the risk of their intake or discharge pipes freezing, "as sometimes did happen in the past".

Notices to Mariners (No. 140 of 1960 (Ex. 670) and No. 30 of 1969 (Ex. 1472)) require vessels to facilitate the boarding of pilots at Les Escoumins by providing both an accommodation ladder and a Jacob's ladder, weather permitting, rigged so that the Jacob's ladder allows the pilot to reach the accommodation ladder. In some cases pilots refused to board when the ladders were not arranged as described in the Notice but there are very few cases of non-compliance now. This arrangement is necessary on account of the seas at Les Escoumins but at Quebec and Three Rivers only the accommodation ladder is required. (For operational cost of pilot vessels, see Part I, pp. 683 and 684.)

#### (a) *Quebec Station Pilot Vessel Service*

Pilot vessel service for vessels in transit or at anchor was arranged by the Shipping Federation and at the time of the Commission's hearings was being provided at the Quebec boarding station during the normal navigation season by two independent private contractors operating under the names of "Eugène and André Jeffrey Reg'd." and "Sam Vézina Reg'd.".

This situation changed in 1966 when the firm Sam Vézina Reg'd. purchased the Jeffrey business. Since May 27, 1966, pilot vessel service at Quebec had been provided by Sam Vézina Reg'd. only (Ex. 1466(w)).

The recommendations of the Lindsay Commission (pp. 54 and ff.) and the Audette Committee (1949) that a government-operated pilot vessel service be provided at Quebec was not implemented. The By-law ignores the Quebec pilot vessel service and does not make the pilot vessel charge at Quebec a pilotage due as was done in the 1959 amendment to the By-law for pilot vessel charges at the seaward station.

During extremely bad weather and when ice occurs at the beginning or end of the winter season, tugs are used instead of the pilot vessels but during the winter season proper tugs are not available and ships have to berth in order to transfer pilots. This is a dangerous manoeuvre when the weather is very adverse (vide Federation of the St. Lawrence River Pilots' Brief to the Pilotage Authority, 1965, and Ex. 1461(m)).

As a result of the pilots' representations the Shipping Federation concluded arrangements with the tug owners, Davie Shipbuilding Limited of Lauzon, to supply pilot vessel service at Quebec throughout the winter season and it was reported that this arrangement was working well (Ex. 1461(q)).

The pilots themselves are not involved in the hiring of pilot vessels or tugs to replace them. The necessary arrangements are made between the shipowners or their agents and the pilot vessel owners.

When pilots are being transferred vessels slow down to minimum speed. Special care has to be taken off Quebec when there is a combination of a strong northeasterly wind and a full flood tide (which occurs from time to time every year) because ships are apt to be blown toward the north shore. There have been cases when a ship found herself dangerously close to the north side of the harbour when the transfer was completed.

*The Jeffrey pilot vessel service* had been in operation since about 1928. They had two wooden boats, both decked, the larger one certified by the Department of Transport to carry 18 passengers plus 2 crew members within the harbour limits.

They never had any complaints from the pilots about their service and their only accident was the occasion when a pilot broke his leg aboard one of their boats.

The crew of the larger vessel consisted of the Master, engineer and deckhand. Mr. Eugène Jeffrey and his brother, who both held a temporary Master's certificate and an engineer's certificate, operated the service with the help of an employee who worked as a deckhand.

The floating platform was provided and maintained free of charge by the Department of Transport. The firm paid the Government \$25 for what they called "Navigation rights".



In addition to pilot vessel service, they furnished other boat services by carrying passengers to and from ships, acting as line boats for ships berthing and unberthing and providing linesmen. The tariffs for all those services were contained in a table approved by the Provincial Transport Board after being previously approved by the Shipping Federation of Canada.

For linesmen they employed longshoremen. At one time they provided this full service themselves but it was discontinued because the longshoremen claimed that it was their job. In the case of liners they took the lines ashore and the longshoremen secured them, but with other ships they simply saw that the longshoremen were available because these ships heaved their lines directly on the wharf.

Included in their insurance coverage was a civil liability policy providing compensation to a \$25,000 maximum per person, killed or injured, and to \$100,000 per accident, and to a \$2,000 maximum for property damages.

*The other pilot vessel owner* was Mrs. Madeleine Nadeau, widow of André Vézina, operating under the registered trade name of "Sam Vézina Reg'd." registered on August 21, 1952. The previous registration was dated June 27, 1945, by her late husband, André Vézina.

She had two vessels:

The *Pierre Vézina* 30×9 feet, partly decked, built in 1955 and operating under Department of Transport permit No. 320, dated July 27, 1955.

The *Sam Vézina* 30×10 feet, built in 1960, operating under Department of Transport permit No. 13D1676, dated April 27, 1960.

Like her competitor she had free use of a floating pontoon and a space on the wharf where she had a small office. She also assisted vessels by conveying passengers, carrying lines and providing linesmen.

She had 10 employees, six operating the vessels and four looking after the office work; two of the boatmen had temporary Master's certificates limited to Quebec Harbour for vessels up to 40 tons.

In order to provide service, the Vézina firm kept its office open around the clock throughout the navigation season. They ascertained the ETA of vessels by checking every four hours with the pilots' office and they also had a Televox system between the pilots' office and their own, the distance between the two being about 125 feet. The Vézina firm reported that there had never been an occasion when they were unable to give service. Only one vessel was used at a time but in case of urgency the second could be used since the men off duty all lived in the neighbourhood and could easily be called.

Included in their insurance coverage was a civil liability assurance policy limited to \$50,000 per person, with a maximum of \$100,000 per accident, and \$5,000 property damage.

The tariffs were approved by the Quebec Provincial Transport Commission. In 1963, the pilots were charged \$10 for one round trip, i.e., taking the boarding pilot out and returning with the disembarking pilot, but if more than one ship was served during a trip an additional charge was made.

*These two operators shared all pilot vessel service* in the harbour up to 1966 and, although they were competitors, they had a business agreement which, they said, gave satisfaction.

The Vézina firm, which has been a family enterprise for generations, did about 75% of the work.

Each firm had its own clients but in some cases they shared, e.g., Canadian Pacific Steamships, in which case they took a ship in turn.

It was almost impossible for an incoming ship not to employ one of these firms because all shipping companies have agents in Montreal and/or Quebec and all the agents and shipowners were clients of one or the other. However, in case of doubt they had a gentlemen's agreement whereby the first available boat was used in order not to delay the ship. If it then turned out that the ship was not owned by one of their clients, the other firm was notified and billed the ship as if it had done the work. In 1963, up to the date of the hearings (July 25) Sam Vézina Reg'd. had done 30 trips which were later credited to their competitor compared with 18 similar trips by Eugène and André Jeffrey Reg'd. There was no attempt to equate this traffic at the end of the year.

The Vézina firm complained that at times this agreement was broken by the other firm which sent bills to their clients and that, on occasion, the shipping companies concerned paid the charges direct to their competitor. On the other hand, some companies declined to do so and reported the matter to the Vézina firm. They said this happened three or four times in 1962 and in 1963 and claimed that through this unfair practice they had lost two clients who, however, had since returned. Vézinas charged that their competitor complained because they had more work than he had and that this was his method of obtaining work from their clients. When this happened the Vézina firm billed their competitor for what he had collected improperly and were later reimbursed.

Neither firm had any difficulty collecting its accounts.

#### COMMENTS

The Commission has no objection to the pilot vessel service at Quebec and elsewhere being provided by private entrepreneurs; in fact, this method should be adopted in all cases except where it ought to be maintained and provided by the Pilotage Authority or another Government entity in the interest of efficiency and economy. But in all cases such a system should be integrated with pilotage operations and should come under the licensing and

surveillance powers of the Pilotage Authority, and the cost of the service to the pilots should be established in District Regulations as a condition of the pilot vessel licence. If a special charge is to be made to ships, it should be included in the pilotage dues (Part I, pp. 276 and ff.).

Furthermore, in the present state of statutory legislation failure by the pilots, or the Pilotage Authority, to provide pilot vessel service at Quebec renders the compulsory payment system (assuming that it is legally applicable in the District) unenforceable. Once a ship has complied with the reasonable ETA statutory requirement (subsec. 345(a) C.S.A.), it is the responsibility of the pilots to offer their services which includes the provision of transportation to the ship.

In cases of ships in transit it is also the pilots' obligation to arrange for transportation at the boarding station from vessels to shore when their services are terminated. Ships are under no obligation to provide it.

(b) *Tugs*

Tugs are readily available during the normal navigation season in Quebec harbour and in Ha Ha Bay. In Chicoutimi harbour and St. Fulgence Channel tugs can be obtained at short notice from Bagotville. Elsewhere in the District they may be obtained if advance arrangements are made.

Service is provided by two companies; in the Chicoutimi-Ha Ha Bay area by Saguenay Shipping and in Quebec harbour by the Davie Shipbuilding Co. Ltd. which also operates the shipyards at Lauzon. The Foundation Company also owns tugs but its operations in the District are limited to towing and salvage and they do not assist ships to berth or unberth.

The Davie Shipbuilding Co. Ltd. owns three tug boats with diesel engines, two of 1,250 h.p. and one of 1,040 h.p. and a fourth with a 700 h.p. steam engine. They are all equipped with radiotelephones in the wheelhouse, H.F. and V.H.F., which have worked satisfactorily for the past six or seven years both for long range communications and also during manœuvres. The tugs do not carry a "walkie-talkie" in view of the fact that they are already equipped with two radio sets of greater range.

The four tugs are not always in operation, e.g., at the time of the hearings in July 1963, only two were in operation because there was no demand for four tugs at that time.

Normally, the request for tug service is made by the agents but, in view of the fact that it is a pilotage decision to judge the necessity and the extent of tug assistance required at any given moment, the agents must first consult the pilot assigned to a particular ship. At times, however, the request comes from the ship but the tug company does not know whether it emanates from the Master or from the pilot.



The despatching office of the Pilotage Authority has no control over the despatching of tugs or the calling of stevedores and plays no part in these operations. However, under special circumstances the pilot orders tugs and no one has ever made any complaint in this regard. Most ships, especially large ships which call at Quebec, use tugs for berthing as a safety measure.

Tug contracts contain conditions by which the tug company is relieved of all liability whatsoever arising from the use of tugs or for damages resulting from the negligence of tug Masters and crews (Ex. 576).

When tugs are used the pilot remains in charge of manœuvres and the tug Master uses any method by which a tug can assist a vessel that the pilot in charge selects.<sup>9</sup> At one time in Quebec harbour there was a problem caused by lack of team work between pilots and tug Masters during manœuvres and in December 1962 a meeting was held between representatives of Davie Shipbuilding Co. Ltd. tug division and the pilots to settle the difficulties they had met the previous spring. At the pilots' request it was agreed to try a new procedure, i.e., pushing vessels instead of towing them, and to adopt a new set of signals. After a few months' experience, it was found that the new method worked satisfactorily and was less dangerous because there was no risk of breaking tow lines.

In recent years there have been no serious accidents involving tugs. There were a few incidents such as a ship bumping a wharf or broken lines but it is difficult to establish where the responsibility lay.

Tug rates at Quebec as of 1963 varied from the regular rate of \$185 (\$210 overtime rate) per tug to assist a vessel from the St. Charles River to stream, and to Marine Terminal Wharf, or Sillery Cove to stream and vice versa to \$85 (\$110 overtime rate) for shifting a vessel at a wharf. When a tug was used for pilot vessel service, the charge was \$65 per ship (\$70 overtime rate). On weekdays regular rates were charged from 7:30 a.m. to 5:30 p.m. During the winter months the charges were 25 per cent higher.

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<sup>9</sup> This is illustrated by the collision of M.V. *Sunbreeze* with the Saguenay Terminal Wharf Duncan No. 1, on October 29, 1963 (Ex. 1466(m)). The accident happened during unberthing when the ship's bow fell towards the wharf slightly damaging both the ship and the wharf crane. The accident was attributed to faulty procedure by the pilot in the use of tugs. He ordered both tugs to secure to the ship with their towlines on the bow. This method would be feasible for a vessel lying at Duncan No. 2 since she would have to move only a ship's length astern before the forward tug could start pushing on her bow to turn her around, but the Investigating Officer found that from Duncan No. 1 inner berth this procedure was neither practicable nor seamanlike since the tugs would fall alongside the ship as soon as she gathered sternway. This was the second time that season that tugs had been ordered to operate in this manner while at Duncan berth No. 1 and that a similar accident happened. The Investigating Officer's conclusion was that the accident was due to the pilot's negligence. No disciplinary action was taken, however, because the pilot concerned was about to retire. In answer to a query from the Commission the Pilotage Authority added:

"It was not felt that this was a subject on which a general direction could be given to the pilots and none was given. Circumstances vary too much and towing practices differ with different kinds of tugs to such an extent that it would be most unwise to try to institute any set practice."

## (4) DESPATCHING

The provision of pilotage service in the Quebec District is fully controlled. It has been so since 1860 when free enterprise was abolished at the pilots' own request in the interest of the efficiency of the service and the improvement of their working conditions, and despatching with its necessary accessory, the pooling of earnings, instituted. Ever since, the exercise of the pilots' profession has been fully controlled, the only variation being that on three occasions a different Crown agent was placed in control.

At present, the direction of the service is, in law, the prerogative of the Pilotage Authority; in fact, it is exercised by the pilots as a group. The discrepancy between the legal and the factual situation is the reason for the complex and involved despatching procedure now in force. In its By-law the Pilotage Authority has delegated responsibility for the direction of the service to its local representative, the District Supervisor of Pilots, who, except for a few rules established in the By-law, has discretionary power in theory. In fact, the Supervisor effects despatching according to detailed written directives, called *despatching rules*, received periodically from the pilots as a group.

To understand the nature of the system now in force and the necessity for its involved procedure, one must consider its governing factors which are mainly, first, the unrealistic and discriminatory position adopted by the Pilotage Authority, and, second, the nature and circumstances of the service in the District of Quebec.

The main cause for this complicated system is the refusal on the part of the Pilotage Authority to recognize fully the *de facto* employee status of pilots when the provision of pilotage service is fully controlled. When a Crown agent deprives the pilots of the right to the free exercise of their profession and undertakes to direct the provision of pilotage service, it becomes obligated to afford them an equal opportunity to make equal earnings; when it deprives them of their status of free entrepreneurs and makes them its employees, it must treat them as such without discrimination and pay them the same remuneration. Unless the pilots become salaried employees, pooling their earnings becomes a necessary accessory to despatching. A pilot who has always been available for duty and who was forced to pilot only those ships to which he was assigned by the Authority, and only when so assigned, must have the same right to remuneration as the other pilots who were also constantly available. He should not receive less remuneration because the ships to which he was assigned were small, nor should he be required to work longer hours for the same remuneration because they were slow or because his assignments took longer than normal on account of adverse conditions beyond his control. The normal and most equitable solu-

tion is for the Authority to operate, as an accessory to despatching, a pooling of pilotage earnings based on the pilots' availability for duty, including specified regular leave of absence and holidays.

This was the situation when the 1860 Pilots' Corporation was the Crown agency responsible for the provision of service. The Corporation handled despatching, maintained the accessory services and pooled the pilotage earnings. Each pilot's remuneration was an equal share of the net earnings of the Corporation, i.e., the pool, for equal availability for duty.

This is now the situation whenever the Pilotage Authority, whether a local Commission or the Minister, has assumed control over the provision of service. It is also the practice in other countries wherever the pilots are not salaried employees (Part I, Appendix XIII). This, however, is no longer so in the St. Lawrence River Pilotage Districts.

This unrealistic and discriminatory attitude towards the St. Lawrence Districts results from the faulty findings of the 1913 Lindsay Commission which condemned pooling as a pernicious practice (pp. 63 and ff.). The 1914 Act which implemented the Commission's recommendations deprived the Pilots' Corporation of its powers to control the service and the pilots' earnings, and vested them in the Minister. Since then, the Minister, until the 1934 C.S.A. both as Pilotage Authority and with the powers derived from the 1914 Act, and thereafter, solely as Pilotage Authority, has retained the direction of the service but has denied the pilots the right to pool their pilotage earnings. While on one hand, according to the legislation, the Minister as Pilotage Authority now exercises full control over the provision and direction of the service (a situation incompatible with free enterprise because it keeps the pilots in the quasi-employee status they have had since 1860), on the other hand, as far as their remuneration is concerned, he takes the official and incompatible attitude that they are free entrepreneurs.

In these circumstances the pilots adopted the best available course to correct the situation by operating their own pooling and have done so through a deed of agreement since the day the Privy Council in the case of *Paquet v Corporation of Pilots* decided that the 1860 Corporation had lost the power to pool the pilots' earnings since the 1914 Act (p. 64).

Unofficially, however, the Pilotage Authority has recognized pooling as operated by the pilots and has assisted them, first, by paying pilotage earnings to the Pilots' Association and, second, by permitting the pilots to direct despatching through the despatching rules.

This has resulted in a very complicated despatching system. Since the authority operating pooling, i.e., the Pilots' Association, has no legal means to ensure that the workload is equitably shared among the pilots available for duty, another basis for pooling had to be found. It was decided to base pooling on work done so that each pilot's share corresponds to his share of



the total workload with due consideration for his grade. The pooling procedure consists merely of averaging the monetary value of the *turn*, i.e., the work unit adopted (p. 115).

In order to afford each pilot the opportunity to earn an equal share, while, at the same time, ensuring that the workload is shared equitably by preventing discrepancies between the maximum number of turns each pilot may accumulate, the pilots have obtained agreement from the Pilotage Authority that despatching is organized according to a system of equalization of trips.

The only rules in the General By-law concerning despatching are as follows:

- (a) The practice in force for the equalization of trips is to be followed.
- (b) Not more than one pilot is to be assigned to a ship except during the winter season or in the case of a composite navigation unit.
- (c) Grade is to be taken into consideration so that no pilot is assigned to a ship beyond the competency of his limited licence.
- (d) Despatching is the responsibility of the District Supervisor of Pilots who, apart from the foregoing rules, has full discretionary powers.

The expression *equalization of trips* is not defined in the legislation. The natural meaning of the words indicates that the Supervisor should see that each pilot is given an equal number of assignments for equal availability for duty and, hence, the two governing factors are the extent of availability and the number of trips. Therefore, *inter alia*:

- (a) A pilot with a smaller number of trips should be given precedence over pilots with an equal or shorter period of availability but with a greater number of trips.
- (b) A pilot with a shorter period of availability should not be allowed to perform as many trips as one with a longer period of availability.

However, because the By-law not only does not define the rules governing the equalization of trips but leaves its meaning vague by referring to "the practice that may be in force", much uncertainty has resulted regarding how to determine availability for duty. This question, despite the involved despatching rules, is still defined unsatisfactorily and remains one of the principal inadequacies of the system.

This point has become complicated largely as a result of the attitude taken by the Pilotage Authority that the pilots are private contractors as far as remuneration is concerned and, therefore, they should be granted leave of absence at will, provided that at any given time the pilotage demand can be satisfactorily met by the available pilots. Hence, the Pilotage Authority has refrained from defining periods of rest and holidays which all the pilots are expected to take and which, for despatching purposes, are considered as part of their availability. As a result, the practice has developed for the pilots to

take leave of absence of varying duration whenever they choose while still retaining the right to equalization. This attitude is wrong in a system of controlled pilotage and may give rise to much abuse since it deprives all the pilots of an equal opportunity to equal holidays. The pilots who were always available should have the right to make more trips, thus increasing their income. It is unjust if they are forced into inactivity to allow pilots who took leave whenever it suited them to equalize, i.e., to have precedence over the others whenever they feel like working.

The pilots as a group have realized that the situation is illogical. In 1961, the Pilots' Corporation required one of its committees to study the question of setting up a system of regular leave. Since 1967, the despatching rules have provided for six periods of six-day leave that must be taken by all pilots from April to November inclusive, and in winter for a seven-week annual holiday which half the pilots take at a time, the first group from December 20 to February 8, and the second from February 9 to March 31.

Other cases of absence or of non-availability are treated inconsistently with regard to the equalization of trips. In certain cases, the pilots are allowed to equalize, i.e., they are given precedence to allow them the opportunity to make up turns, but at other times they are not. There are no set rules. Only a few cases are dealt with as cases of exception while others are decided by the Supervisor as they occur, generally arbitrarily. The reason for this unsatisfactory state of affairs is that the problem relates mainly to remuneration and, therefore, should be dealt with in the pooling regulations and not in the despatching rules. For instance, a pilot should be considered on duty—hence, should not be despatched but should be remunerated as if he had not lost any turns—when he attends Corporation meetings as a Director or is prevented from piloting by the Pilotage Authority to undergo an examination, to assist in an investigation, whether as a witness or otherwise, or is taken off the list or placed under preventive suspension by the Pilotage Authority or by a Court of Preliminary Inquiry if the suspicion is later proved unfounded (Part I, p. 564). Consequently, the equalization rule should never apply, either for despatching or pooling purposes, *inter alia*, to periods of absence without leave, voluntary absence with leave but beyond regular compulsory leave, and absence due to suspension of licence awarded by a court. It should not apply, for despatching purposes at least, to periods of absence due to illness or injury, whatever the cause. This is a question of remuneration or, more accurately, of compensation for illness.

The despatching procedure must also take into consideration the peculiarities of the District and the extent and nature of the demand for service. Since the nature of the service in this District is river pilotage and the distance between the limits makes it impractical to maintain only one pilot station from where the pilots travel to meet ships at the various boarding stations, there must be a station at each end of the District with sufficient

pilots to meet the expected demand at any given time. Despatching should be arranged so that the pilots spend the longer periods of waiting between assignments at home, and land travel between stations is reduced to a minimum by taking advantage of the availability of pilots at sub-stations.

The despatching rules devised by the pilots as a group have no standing as legislation but are merely administrative orders which become directives from the Pilotage Authority when approved on behalf of the Authority by the District Supervisor. This is an unsatisfactory situation since some of these rules have a far-reaching effect upon the earnings of the individual pilots and, therefore, should be embodied in pilotage legislation.

(a) *Despatching Rules (Ex. 642)*

The reference in the By-law to the regular practice of equalizing trips is, in fact, a reference to the set of rules made by the pilots themselves with which the Pilotage Authority has concurred. These despatching rules have existed for a great number of years and are amended from time to time to meet changing conditions and circumstances, or to achieve precision where ambiguity was detected, or to correct previous rules that experience has shown to be faulty.

The task of reviewing these rules has been entrusted by the Pilots' Corporation to a special committee chosen by the Board of Directors. For instance, in a bulletin addressed to all pilots, dated February 2, 1961 (Ex. 688), the Board of Directors informed the pilots about the composition of the committee for that year, i.e., two pilots Grade A, two Grade B and two Grade C. *Inter alia*, the committee was given the task of studying a procedure for movages in the harbour of Quebec as well as a system of leave during the summer months. All pilots were requested to send their suggestions to the committee.

The rules distinguish between despatching for trips and despatching for movages. Despatching for trips in the District of Quebec is affected by three factors: stations, turns and grade.

There are three *stations* where the pilots may be required to remain while they are ashore: Quebec City, Les Escoumins and Port Alfred which for the purpose of despatching is dealt with as a station. When a pilot disembarks at an intermediate port he must remain with his ship if his services are required within 24 hours.

The main pool of pilots is at Quebec and any surplus pilots elsewhere in the District come to Quebec by land. Similarly, if a sub-station can not meet its requirements, a sufficient number of pilots is sent from Quebec by land. These movements are limited by the availability of transportation; usually buses are used but taxis are hired in urgent cases. Pilots normally travel between Quebec and Port Alfred or Chicoutimi during the daytime only because there is no bus service at night. Hence, a pilot assigned from



Quebec to board a vessel in the morning at Bagotville, for example, has to leave by the last bus the day before.

The pilots are despatched from the Quebec station according to an assignment list which takes into account the chronological order of their availability and the number of turns with which they are credited.

The despatching list, which is made daily at Quebec, contains four groups of pilots, one for each station and a fourth showing those absent with an indication of the cause, i.e., illness or other reason (Ex. 643). The names of all the pilots on strength must be shown on each list. Ex. 643 is the list of July 24, 1963, broken down as follows for the 77 pilots on strength:

- (i) On turn at Quebec—31 pilots.
- (ii) On turn at Les Escoumins—26 pilots.
- (iii) On turn at Port Alfred—3 pilots.
- (iv) Absent—17 pilots: 3 attending the Royal Commission, 4 ill, 7 on leave and 3 for reasons undetermined.

A new list is made every morning at 9:00 a.m. and the pilots who arrive after that time are shown in order of arrival on a separate list which serves to make up the new list the following day, unless leave of absence is granted.

The list at the Quebec station is compiled by order of arrival and number of *turns* completed by each pilot. According to the principle of equalization of trips, a pilot with fewer trips is given the opportunity to take an assignment in preference to another pilot who has done a greater number of trips. Therefore, when the daily despatching list is established the pilots are placed in the order of the number of turns to their credit at that time and in ascending order, those with the lesser number of turns at the top of the list and those with the higher number at the bottom. The order of arrival applies only to pilots with an equal number of turns. The process is repeated every day so that those who, for one reason or another, lacked the opportunity to make as many trips as the others are given the opportunity to catch up by doing more assignments until they reach an equal number of turns.

In the rules there are two exceptions to the equalization rule. Except for the Tuesday list, the two first names (previously five) at the top of the previous day's list remain first on the next day's list, the equalization of turns not applying to them. Obviously this is done in order not to interfere with immediate despatching. It also prevents a pilot with fewer turns but recently back from a trip from being despatched without sufficient rest. The second exception concerns the winter navigation season. The equalization rule does not apply from December 16 to March 31 and a pilot who has not arranged for a replacement and who is not available for a valid reason loses his turn and is entered on the next list for despatching purposes as if he had completed his assignment (to this rule an exception was provided by an amendment dated April 8, 1965, for the Directors who have to miss a turn to attend to the Corporation's business).

The application of the equalization rule is limited to the pooling accounting year which ends on December 15, and the list starts at zero for everyone on December 16 each year but their order on the list is the order in which they were shown on the last assignment list December 15.

This limitation is inconsistent with the equalization principle and discriminates against those who fell behind in turns at the end of the year. This is partly corrected by fixing, for pooling purposes, the "maximum average" (p. 481), thus modifying the basis of pooling for those who were always available from *work done* to *availability*. The other inequalities in treatment will be minor if the equalization right is restricted to regular compulsory leave of absence or to the pilots who have fallen behind in turns on account of abnormally long assignments.

The rule of equalizing turns does not apply to the Les Escoumins and Port Alfred lists where a strict *tour de rôle* is followed, with due regard for the pilots' grades and their right to change turns or ask for leave. The list is made up in the order of arrival at Les Escoumins or Port Alfred from a vessel downbound or by land. This procedure is followed to avoid detaining pilots with relatively high turns at these sub-stations away from home. In addition, pilots who are not immediately needed at Les Escoumins may, with the permission of the officer-in-charge there, return to Quebec by any means available. Their names are entered on the assignment list there as of the hour of arrival of the first bus they could have taken. At Port Alfred, a pilot may not return to Quebec if his services are required for any reason within 24-hour period, but, as seen earlier, he must remain with his ship at an intermediate port if his services are required within 24 hours.

The daily list is compiled without considering the various grades of the pilots but these are taken into consideration at the time of despatching. When a pilot reaches the top of the list, he is assigned to the first ship for which he is qualified and, if the first ship is one for which he is not qualified, the next pilot on the list with the necessary grade will be assigned. On the other hand, a higher grade pilot at the top of the list will be retained as long as possible for an expected ship of his class, and a lower grade pilot second on the roster will then be despatched instead.

The equalization rule is also applied to Grade A assignments and preference is given to the Grade A pilot with the smallest number of turns because these assignments bring extra remuneration.

Each turn is compulsory unless the pilot is excused or prevented by circumstances beyond his control, but to avoid any hardship that might be caused by applying the equalization of turns rule a pilot is entitled to refuse to take his turn if he has not had ten hours' rest (seven at Les Escoumins which could be extended to ten) between assignments. This happens rarely at Quebec where, as a rule, the pilots have more than ten hours between assignments but at Les Escoumins and Port Alfred, where there are fewer pilots, the situation may occur more frequently.

Some leeway is allowed by permitting pilots to change turns among themselves provided the two pilots concerned agree.

(b) *Unwritten Despatching Rules*

In addition, the despatchers follow a series of rules which are not in the By-law or in the Despatching Rules:

(i) If a pilot is absent because of illness, it is left to his discretion whether the equalization rule should be applied or not. The justification for this practice is said to be the *modus operandi* agreed upon by the Authority and the Pilots' Association (Ex. 1464(a)) because the pilot is entitled to limited sickness benefits under the pilots' own pooling arrangements, provided he foregoes the benefits of equalization (p. 480).

(ii) If a pilot is carried outside the District, he is not given the privilege of making up turns lost during his involuntary absence and, as far as the Pilotage Authority is concerned, the only remuneration to which he is entitled for that period is what the vessel pays him pursuant to sec. 359, i.e., \$15 per day. The actual situation differs in view of the private arrangements which the pilots have made by their unofficial pooling. Previously, the equalization of turns rule was applied, with the result that the pilots were often able to make up their lost turns while they were drawing statutory compensation plus other benefits provided privately by their Association.

(iii) In the case of a new pilot, the equalization rule applies from the date of his appointment, i.e., for despatching purposes he is credited with the average number of turns for each pilot at that date. The authority again quoted for this practice is a *modus operandi* agreed to verbally by the Pilotage Authority and the Pilots' Corporation (Ex. 1464(a)).

(iv) In the case of licence suspension, whether the suspension is the result of a preventive measure or an award imposed by the Pilotage Authority or a court created under Part X of the Act, it would appear that the pilot is prevented from making up the missed turns when he is entitled to indemnity turns according to the pooling rules for a suspension awarded for reasons other than the use of alcoholic beverages or narcotics (p. 384). Contradictory and arbitrary practices have prevailed in the absence of set rules (Ex. 1464(a)).

(v) When a pilot is taken off the assignment list pending investigation for alleged impairment (By-law, sec. 19) or on account of alleged physical or mental disability pending the outcome of a medical examination (By-law, sec. 23), the equalization of turns rule will apply when he returns to duty (Ex. 1464(a)).

(vi) The District Supervisor removes from the assignment list any pilot who has been absent without leave until the pilot appears before him to justify his absence. Whether disciplinary action follows or not, the pilot will be given the benefit of the equalization of turns rule.



(vii) When Captain Allard was District Supervisor, he initiated a new procedure for dealing with unjustified absence. Instead of causing the offender to be tried, he merely prevented the pilot concerned from making up his lost turns (p. 384). Captain Slocombe, Chief, Nautical and Pilotage Division, in his letter dated February 8, 1966 (Ex. 1464(a)) pointed out that "a fine means a payment of money that has been worked for, while in this case there is merely a prolongation of the period of idleness. If a pilot who has lost turns through unjustifiable absence were permitted to make up his turns at a time convenient to himself he would be encouraged to repeat the procedure." Nevertheless, there is no authority for such action in the District By-law or in the Despatching Rules, however desirable it may be. Furthermore, the offences committed must be tried.

(viii) Similarly, the District Supervisor removes from the roster a pilot who was involved in a shipping casualty. Captain Allard stated that this was to allow the pilot to prepare his casualty report and to help the Supervisor in his investigation but there is no authority for this. However, if there is a conflict between a pilot's duty to appear before the Supervisor in connection with a shipping casualty or a similar matter, and with his duty to report for assignments, he should obviously not be despatched or the administration of the service would be unduly delayed. In such an event, withdrawal from the assignment list would be only for the time necessary to perform these other accessory duties and he would be given the privilege of equalizing turns (Ex. 1464(a)).

#### (c) *Movages*

Despatching for movages varies depending on whether the movage is to take place in the harbour of Quebec or elsewhere.

*For the harbour of Quebec* a special list is made of volunteers who wish to do movages; in 1964, for instance, 40 pilots attended to movages in Quebec harbour. The equalization rule applies as far as possible but complications arise if the first pilot on the list is not available because he is on duty elsewhere or has personal reasons for not performing a movage at any particular time. In such a case, the next pilot on the list is called. Movages are performed on a voluntary basis, and there is no need to make them compulsory since there are always a sufficient number of willing pilots available. Practically the same names appear every year. Some pilots never volunteer to do movages.

Mr. Maheux stated that to his knowledge there had never been an occasion during his 35 years at the pilotage office in Quebec when a pilot was not available to do a movage in the harbour.

When a pilot has performed a movage, his name is brought down to the bottom of the group with whom he shares an equal number of movages. If a pilot refuses—without good reason—to take a movage when his turn comes,

he is shown for despatching purposes as if he had done that movage and, therefore, his place on the list is automatically lowered. The same procedure is applied for those who would not perform movages during the summer months because their summer residence is not in Quebec or its immediate vicinity (Ex. 648).

Movages in the intermediate ports are done by the pilots who happen to be there, e.g., in Chicoutimi and Port Alfred, the pilot aboard a ship in harbour does the work. If no pilot is available, a request is sent to Quebec and the first pilot on the general list (not the movage list for the harbour of Quebec) is sent by land from Quebec to Port Alfred or Chicoutimi or the port concerned to do the movage.

(d) *Trial Trips*

Trial trips usually involve newly constructed ships or vessels which have been repaired, and are carried out at various speeds to test machinery equipment, manœuverability, safety, etc. Pilotage dues must be paid unless the vessel enjoys an exemption because these trials take place in pilotage waters but, since the vessel frequently crosses from one pilotage zone to another and becomes technically liable for unrealistic pilotage dues, it is left to the local Supervisor to decide what tariff to charge and what turns to credit. Where rates for trial trips are provided in the tariff, they are normally based on the time factor (Part I, p. 160) but, since they are lacking in the Quebec tariff, the Supervisor tries to adapt the trip rate according to circumstances. He disregards zones and direction because, e.g., a trial trip of about 20 miles from Lauzon Dockyard to the eastern tip of Orleans Island and return would normally be considered as two trips, each worth one third the basic tariff charge. In practice, he goes by the mileage covered, i.e., about 70 miles equals two-thirds of a trip, 40 miles or less equals one third and a full trip is 90 miles. If the trip is to be extensive, the Supervisor usually despatches two pilots and renders two bills. Ex. 708 explains the amount H.M.C.S. *Provider* was charged for her trial trip which lasted four days in September, 1963. Two pilots were employed and the charge was thirty-two thirds trips, plus four movages (compass adjustment, anchor trial, steering gear trial and crash trial) plus detention for a total of \$1,956.92, i.e., tonnage \$628.05, draught \$1,053.87, movages \$80, detention \$195. In terms of turns, these thirty-two thirds trips amounted to 5½ turns for each of the two pilots employed.

(e) *Special Despatching*

Although the foregoing despatching rules are not mandatory, it is under very special circumstances only that the Authority takes it upon itself to make a special assignment. This is illustrated by the case of the *Canuk Trader* when the owners asked for one of their former special pilots to take this ship on a difficult trip through the St. Fulgence Channel. The request was refused because the circumstances were not such as to warrant an exception to the general rule (see p. 321).

(f) *Winter Despatching*

As far as despatching is concerned, the winter season dates are December 1 to April 8 and during that period all assignments, except movages, call for the joint despatching of two pilots. The incorporation of this rule in the District By-law, and consequently in the Despatching Rules, was a hard-won success by the Board of Directors in 1960. P.C. 1960-1601 dated November 25, 1960, amended sec. 15 of the General By-law to this effect.

The practice of despatching two pilots during the winter season had been followed unofficially for many years. After November 20 and throughout the winter when floating aids to navigation were removed, it had been the custom for the pilots to proceed two at a time (although this was not recognized in the By-law) the second pilot voluntarily accompanying the assigned pilot to assist him. It was simply an understanding with the shipping interests that a second pilot would go aboard after November 20 and the shipping companies paid the second pilot an unofficial remuneration, which he collected himself, amounting at first to \$25 per trip, then to \$40 and later to \$50.

Around 1930, the shipowners' refusal to employ a second pilot during the winter season and to pay him the usual unofficial remuneration resulted in a strike by the pilots who refused single assignments. This strike occurred at the end of the season when ships had to leave the District or remain ice-bound until the next navigation season. After two days, the shipowners agreed to resume the former practice.

In 1958, the need for two pilots during the winter was formally recognized by the Shipping Federation when a proposed tariff revision was studied. On March 4, 1958, Captain Matheson of the Shipping Federation wrote to the Secretary of the Pilots' Association conveying the Shipping Federation's agreement, *inter alia*, to the increase from \$40 to \$50 for the remuneration of the second pilot on winter trips. The agreement was referred to the Pilotage Authority for implementation and on April 2, 1958, the Director of Marine Services replied that the Pilotage Authority had no objection to the proposed increase, but pointed out that there was no action indicated on his part since the payment for a second pilot was not covered in the By-law.

The question became a problem when the pilots asked to have the situation regularized by a proper stipulation in the By-law in view of the fact that this practice of despatching two pilots on winter assignments answered a real need. No one actually opposed the principle but there was disagreement whether the winter season should commence on December 1 or December 14.

The pilots met with so much opposition that they had to invoke the assistance of the Federation of the St. Lawrence River Pilots which, on January 29, 1960 (Ex. 753) forwarded a brief to the Pilotage Authority. *Inter alia*, this question was raised not only for the Quebec District but for all



the other St. Lawrence River Districts. The pilots asked to have double despatching during the winter season incorporated in the By-law as compulsory in the St. Lawrence Districts and with full tariff for each pilot.

They pointed out that winter navigation differs from navigation during the regular season in that the length of the trip and the ice and weather conditions can not be foreseen and there are no floating navigational aids. These factors resulted in the custom of double despatching that has been practised unofficially for years. The purpose of the brief was to provide more reasonable working conditions and more adequate tariff for winter assignments, particularly since the number of ships entering the District during those months was increasing. It was noted that in previous years there had been successful attempts at mid-winter navigation up to Quebec, and even as far as Three Rivers, and there had also been a tendency to extend the actual navigation season both in the spring and the autumn.

The matter was settled eventually. The period during which double despatching would be in effect was defined as December 1 to April 8, and full remuneration for the second pilot was approved but not exceeding \$100 per trip. In his annual report in January 1961, the President of the Pilots' Corporation pointed out that this had been one of their accomplishments during 1960 and that it meant a substantial improvement in both their working conditions and their remuneration. He acknowledged the great assistance that they had received from the Pilots' Federation (Ex. 683).

Two pilots are assigned in winter for two reasons: first, the journey may last a long time if adverse ice and weather conditions are met since the vessel may have to slow down to avoid damage while transiting the ice, may have to stop to wait for better conditions, may be caught in the ice and may have to wait until the wind and tide help to free her; second, the additional pilot acts as a special lookout and helps to identify the aids to navigation which are located by radar or are sighted visually. The Despatching Rules provide that the two pilots take turns on watch and that their watches are recorded in the ship's log. The length of their watches is left to the pilots but the pilot on duty can always ask the second pilot to assist him.

It is agreed that winter navigation is hazardous but it is practicable if the required precautions are taken. The pilots have never objected to winter navigation and are of the opinion that their contribution has helped to make it possible, they have worked in close co-operation with the local authorities such as the Quebec Metropolitan Office and no pilot has ever refused a winter assignment.

Since traffic is comparatively light during the winter, double despatching does not create a shortage of pilots.

The boarding station at Les Escoumins remains open throughout the winter and this has worked out quite well. At times, however, a pilot may not

disembark at Les Escoumins if his ship is bound for Baie Comeau or other nearby port and the weather or other conditions are not favourable (for winter traffic statistics, vide pp. 203-205).

Due to the small number of ships entering the District during the winter, the pilots are not required to stay at Les Escoumins but are sent down by land when an upbound ship is expected. However, the actual time of arrival is much less predictable since vessels may be delayed in the Gulf by ice or other reason and pilots despatched from Quebec have occasionally had to stand by at Les Escoumins as long as two or three days waiting for their vessels (for improvements to assist winter navigation, vide pp. 197 and ff.).

(g) *Notification to Pilots*

A pilot is entitled to a minimum notice of one hour and a half before assignment but when this minimum notice can not be given he is asked to do the best he can. Such a situation occurs in the case of a departure and is generally caused by an agent waiting until the last minute to ask for a pilot. In order to avoid short notice, the Supervisor has established the rule that, as soon as the list is completed in the morning, the despatchers call the various companies to ascertain the estimated time of departure of their ships in the harbour.

A pilot does not have to report to the pilotage office before proceeding on duty and may do so only when he has to use the pilot vessel. When ships are boarded from a pier or wharf, the pilots proceed directly to them. Pursuant to sub-sec. 15(4), the Supervisor can issue standing orders requiring all pilots to report to the pilotage office prior to proceeding to duty, but he has not deemed it advisable to do so.

(h) *Pilots Going outside District Limits*

Nowadays, pilotage is not normally performed outside District limits. At one time, Quebec District pilots occasionally performed port pilotage in Lower St. Lawrence River ports, such as Baie Comeau and Seven Islands, with the permission of the Superintendent as provided for in the By-law. Since this pilotage was not performed inside District limits, the remuneration was arranged between the employer and the pilot concerned and belonged to him personally. This type of piloting is no longer performed, except on rare occasions as illustrated by S.S. *John A. McDonald*. During a trial trip the vessel proceeded outside District limits and apparently there had been some criticism because the two pilots employed had been carried outside the District. The Board of Directors investigated and informed the pilots in a bulletin issued September 1, 1960, that this had been an exceptional case in that the vessel was on a trial trip which required her to proceed at full speed for a period of 24 hours. Special permission had previously been obtained from the Superintendent (Ex. 688).

(i) *Notice of Requirement for Pilots and  
Difficulties Arising from Inaccuracy or Absence*

Adequate and accurate advanced notice of requirement for pilotage services is a prerequisite for the efficient and economical operation of a controlled pilotage service. It is now an international requirement that all vessels be equipped with some type of telecommunication; they are all fitted with RT equipment and most vessels also carry at least HF radio communication equipment. The greater power and speed of ships and the availability of modern electronic shipborne aids to navigation now permit vessels to maintain an accurate schedule despite adverse weather conditions and, therefore, it is now possible in the great majority of cases to give 12 hours' advance ETA with great accuracy.

Serious difficulties have always arisen at the seaward station of Les Escoumins because of failure to give such notices of requirement and inaccurate notices. Since the pool of pilots is maintained at the main station in Quebec, pilots are kept at the sub-station only in sufficient numbers to meet local requirements as determined by advance notices received and by the traffic information the despatchers obtain. The establishment of the Marine Traffic Control System should be of considerable assistance.

All too often, vessels have arrived at Les Escoumins unexpectedly creating despatching problems and unnecessary expense for the pilots because, if these arrivals cause a shortage of pilots at Les Escoumins, additional pilots have to be transferred by taxi from Quebec. In 1963, the Pilotage Authority at the request of the pilots reminded shipping about these requirements (Bulletin, March 13, 1963, Ex. 688) but many vessels still do not comply. For instance, in June 1965 alone, 17 ships gave less than the required 12-hour advance notice and 13 sent no notices at all.

It was suggested that the time should be increased to at least 24 hours since even 12 hours' notice would be insufficient. This suggestion is not in the best interest of the service. Care should be taken not to insist on an unreasonably long notice of requirement which, perforce, would be less accurate the more it was complied with. Since the length of such advance notice is a function of the internal arrangements adopted to make pilots available at the seaward station, it should be set so as not to inconvenience shipping unduly or disrupt the pilotage service.

It should also be remembered that pilotage is a service mainly to non-regular traders who are unfamiliar not only with the restricted waters of the District but also with the governing legislation. Therefore, every reasonable step should be taken to ascertain the pilotage requirements of all vessels due to arrive at the pilot station whose notice of requirement has not been received. Such a measure, in addition to enhancing the efficiency of the service, would prevent embarrassment and difficulty for all concerned in cases



where the requirement has been complied with but the notice has not reached the pilotage despatchers because of a breakdown in transmission (vide pp. 188 and ff.).

Since the establishment of the Marine Traffic Control System, pilotage despatchers are not as likely as before to be taken by surprise since they are informed of the names of most upbound vessels west of Sept-Îles and the approximate time of arrival at Les Escoumins. By experience, the despatchers know which vessels dispense with pilots and, therefore, are able to make the necessary provision for pilots even in the absence of notices of requirement. In case of doubt, they can always (as is done at the Victoria pilot station in the British Columbia District) seek the required advance information by contacting these vessels, either through the VHF system or through the coast radio station. However, some vessels may still arrive without notice, either because they fail to report when entering the system or because they do not carry VHF equipment and fail to send the required notice through a coast station. These should now be rare exceptions.

It is considered that the question of advance notice of requirement is not treated adequately in official publications: the information is either incomplete, or contradictory or not located in the most effective place, namely:

- (i) Sec. 10 of the Quebec District By-law contains a single requirement applicable to all cases, i.e., three hours' advance notice.
- (ii) The despatching rules require that a pilot be given one hour and a half pre-notice for any assignment from Quebec.
- (iii) The only Notice to Mariners in the Annual edition 1969 dealing directly with the subject (No. 30) reminds the Master of a vessel requiring a pilot that such request should be submitted in sufficient time to enable a pilot to meet the vessel. Specifically for the Quebec Pilotage District, it provides only for vessels inward bound in the Gulf of St. Lawrence: the minimum notice is 12 hours prior to arrival at Les Escoumins which should be sent through the Marine Traffic Control, Quebec Centre, if communication can be established; if not, through radiotelegraph or radio telephone *via* any coast radio station to "Pilots, Montreal". This request must be confirmed three hours prior to arrival at Les Escoumins through the same means of communication. The Notice is silent except for the general statement as to the minimum notification by ships downbound which require a pilot at Quebec or when departing from a berth anywhere within the District.
- (iv) Notice to Mariners No. 243 of March 7, 1969, announcing the Marine Traffic Control System deals with the question indirectly. After stating that the VHF radiotelephone network of the system is intended exclusively for marine safety information and controlled

messages and that public correspondence is not accepted, it merely states that information re a vessel's movements will be distributed from the system in order to ensure efficient pilot despatch. It does not indicate that the system's VHF network is to be used to transmit notices of requirement of pilots from Les Escoumins and the other pilot stations *en route* but, on the contrary, conveys the impression that this can not be done.

- (v) The St. Lawrence River Pilot, First Edition 1966, as corrected to February 2, 1968, covers the subject in more detail but deals only with ships under way.
  - (A) Every ship inward bound in the Gulf must report to Montreal Marine Information Centre *via* any coast radio station; a minimum notice of 12 hours must be given to ensure the availability of pilots at Les Escoumins; the ETA must be confirmed by messages addressed to "Pilotage, Montreal", three hours prior to arrival at Les Escoumins by radiotelegraph or radiotelephone or through a coast station or by VHF radiotelephone on Channel 14 to the Quebec Marine Traffic Control Centre.
  - (B) To obtain a pilot at other pilot stations between Quebec and Cornwall, messages should be addressed to "Pilotage, Montreal" three hours prior to arrival at the pilot station *via* the respective coast stations or marine control centres at Quebec or Montreal.

The partial information contained in the St. Lawrence Pilot should be completed by covering the cases where a ship departs from a berth in the District and by describing in complete detail what the notice should contain. The other publications should be amended to carry exactly the same information and should use the same terms to avoid confusion. Furthermore, the Notice to Mariners concerning the Marine Traffic Control System should provide the same information or, at least, contain a cross-reference to another Notice to Mariners where the full procedure regarding the required advance notice of requirement for pilots is described.

It is further considered that ETA is a misnomer when applied to notices of requirement for a pilot in a system of controlled pilotage. This is a relic of the time when pilots were required to offer their services when ships were sailing through the boarding station, and those who were not spoken to by the pilots were free to proceed without one if they wished. The addition in sec. 345 C.S.A. of the ETA requirement was to enable the Pilotage Authority to maintain at the seaward boarding station sufficient pilots to ensure that all passing vessels are spoken to and that the pilotage demand is met. With a fully controlled pilotage service, it is now necessary to provide a notice of require-

ment in which the estimated time of arrival off the pilot station is only part of the information required by the Pilotage Authority. A new term should be found and used, e.g., "notice of pilotage requirement."

### (5) WORKLOAD

In Quebec, as elsewhere, the question of workload is most contentious because workload is one of the essential factors in determining both the number of pilots and the tariff rates and, hence, the remuneration of the pilots. In order to furnish adequate pilotage service at a fair rate for the users while still providing reasonable remuneration for the pilots, their number should be limited to those required to meet the normal demand under suitable working conditions.

Because of the nature of the service, it is occasionally impossible to avoid keeping a pilot on duty for a substantial number of hours, nor would it be reasonable to demand a complement large enough to ensure only a normal workload even during unexpected, brief peak periods. In these cases, the pilots may be required to work longer or more often than they normally would, but this is a professional hazard to which the pilots are accustomed. The only certain remedy would be an arrangement whereby the pilot was relieved at the expiration of a certain number of hours of duty, but this would mean either regular double despatching or dividing the District. It is noted that during the winter, when adverse conditions and delays are to be expected, a rule for double despatching has been established.

When determining normal working conditions a reasonable period of rest should be provided between assignments plus some allowance for holidays and leave.

Since the pilots in the Quebec District are officially remunerated only for the work they have done, it is left to them to decide when to take a holiday, the only condition being that they obtain leave from the Supervisor which is automatically granted if there is no shortage of pilots. As seen earlier, they have arranged since 1967 for compulsory annual leave and periodical periods of absence.

In peak periods, or when a pilot is called to work more often than his colleagues in the process of catching up lost turns, a pilot is authorized to refuse an assignment if ten hours (or seven at Les Escoumins) have not elapsed since his previous assignment. This rule was not made to prohibit re-embarking a pilot prior to the expiration of the ten-hour period but merely to allow him to refuse for any valid reason because under these circumstances he would normally feel tired. After ten hours have elapsed he can no longer refuse an assignment. This rule is seldom, if ever, applied in Quebec because, due to their numbers, the pilots generally have much longer than ten hours between assignments.



In the Quebec District, navigation is now year round but the normal navigation season lasts nine months, i.e., from April 1 to December 31. During the three months of the winter season there is comparatively little traffic and, despite the assignment of two pilots to each ship, there is little pilotage. In 1964, pilot Rousseau stated that the average number of turns per pilot during the winter season was two or three.

(a) *Remarks on Statistics*

Statistics on workload in the Quebec District are very misleading.

- (i) When they are based on the number of trips, their duration and distance are not taken into consideration; "trip" then is not a unit of work but merely refers to an invoice. In this regard, the number of turns (excluding free turns granted) is more accurate.
- (ii) When averages are taken, it implies that the demand is evenly spread throughout the year, but this is not so.
- (iii) When averages are based on time aboard vessels performing pilotage work, they may be misleading in that they show only part of the duties of the pilots and, furthermore, the other factors vary greatly from one District to another. In these statistics no account is taken of the full workload of a pilot, i.e., his travelling time to reach the vessel, his travelling time between stations, his time at a seaward station, or at a sub-station, or in a port awaiting assignment, in other words, his time away from home. In addition, unless he is in a rest period or on leave, he is always liable to be called back to duty at any moment and has to be prepared to report.
- (iv) The confusion is compounded by the unrealistic statistic of *effective pilot*, which was conceived for a system where the pilots are remunerated on the basis of availability for duty, but has no meaning in Quebec where the pilots are remunerated on the basis of work done. Furthermore, the effective pilot statistics for Quebec are not even comparable year to year, nor can they be compared with those of other Districts (pp. 311-314).

Statistics are necessary, but they are useless and misleading unless they are well defined. Only those computed by the same method from comparable elements are valid for comparative purposes. The more detailed they are the more useful and informative they will be (Part I, pp. 147-149).

In its efforts to gather information the Pilotage Authority has not received the full co-operation of the individual pilots, despite the efforts made by the Pilots' Corporation. Some pilots have continually failed to fill out source forms correctly, notwithstanding repeated requests from both the Pilotage Authority and the Pilots' Corporation.

The principal point of contention is the item *Ordered Time*, which is entered more often than not as the time when the pilot received his orders from the despatcher and not the time when he was ordered to report on board.

This difficulty is peculiar to the St. Lawrence Districts where such information has no financial meaning for the individual pilot and only a statistical value for the Authority. The problem does not exist in British Columbia, for instance, where the pilots have an incentive to enter the correct figure because detention is computed from the time the pilot was ordered to report (provided he was not late in reporting), while detention is paid in Quebec only when a pilot is detained aboard at the request of the Master, but none is paid when the ship arrives after her E.T.A., irrespective of how long a pilot has had to wait (Part II, p. 159).

The source form, which was obviously the result of the standardization policy, is the same for all Districts where the Minister is the Pilotage Authority. Its prime function is to compute the dues for each assignment. When used for statistical purposes, it is very limited in that it does not provide full information and does not take into consideration the peculiarities of each District.

When the Authority decided to print the source form, the Regional Superintendent met with the Quebec Pilots' Committee to explain the changes and later on at a general meeting the form was explained to the members. Furthermore, in a bulletin the members were informed how to complete it in accordance with the explanation received from the Regional Superintendent.

In a bulletin from the Pilots' Corporation, dated June 2, 1961 (Ex. 688) the pilots were reminded that, since the information contained in the source forms is used both by the Department of Transport and by their Secretary for statistical purposes and also for the computation of dues, they were requested to complete them correctly.

In 1963, a notice was received requesting the entries *ordered time*, *reported time* and *sailing time* be completed in another way. These new instructions came from the Regional Superintendent in Montreal and were relayed to the pilots by Captain Allard in a notice dated April 17, 1963 (Ex. 695) which defined *time ordered* as the time for which the pilot is ordered to report for duty as illustrated by the following example: If an agent at 1400 calls for a pilot to be available for departure at 1600, the *time ordered* would then be 1600. *Time reported* is defined as the time the pilot actually boards the ship and *time sailed* is when the ship gets under way.

The source form was not altered but the definition that up to that time had been assigned to various terms was changed so that the information could be used to calculate detention, where applicable, and the actual time of each trip. The pilots had not been consulted and some of them were opposed

to giving any workload information to the Pilotage Authority. Pilot Rousseau, for instance, did not agree with using the information from these source forms to ascertain the hours worked and workload of each pilot because no record was kept of travelling time, time at the office or at the station waiting for a ship. The witness added that personally he did not see the use of all this information about sailing time, disembarking time and waiting time, because the pilots are not paid by the hour or by the minute but for services rendered.

The resulting confusion of the pilots is evidenced by Ex. 733 which details the assignments performed in the month of June 1962, 1963 and 1964 by pilot Paul-Emile Cloutier. He indicated, and continued to indicate, an "ordered time" considerably earlier than the "reported time" which would mean that on each assignment he was late reporting by many hours, but this was not the case. For instance, on June 1, 1962, the assignment shows his ordered time as 1600, May 31, and his reported time as 0400, June 1, and on his next assignment, the ordered time is recorded as 2000, June 1 and the reported time as 0300, June 2.

The Supervisor, however, through the despatchers, had all the resources to make any necessary check and could have corrected the situation. Ordered time originated with the despatchers and it would have been very easy to verify whether the source forms had been completed correctly, but there is no evidence that any such action was taken. The fact that the practice was allowed to continue would indicate either that the way the source forms were being completed was in accordance with the instructions in force at the time, or that the Supervisor did not consider the matter important.

*(b) Workload Statistics*

With reference to the workload for any given year, the actual number of trips performed by the pilots can be found in the annual report (Ex. 534) and as broken down by the pilots (Ex. 645). As mentioned above, statistics of this type are not satisfactory because they show merely the number of invoices or the number of times a pilot was assigned, but do not take into consideration the length of trips either in time or in distance. These figures, however, have a certain significance in that over a period of years these factors would average out, but their use in discussions and negotiations always gave rise to much argument. Misunderstanding is compounded when use is made of statistics on effective pilots.

The turns used by the pilots in their financial reports are a more accurate measurement of workload (Ex. 597), provided the free turns are subtracted first (Ex. 654). Turns take into account the distance covered during assignments but not the length of time they require.

The pilots were often confronted with these statistics which they always found misleading. In 1960, they spent most of the winter compiling their own figures in order to be in a position to show the exact situation in future negotiations.



For this purpose they formed a committee on which nearly 45 pilots worked throughout the winter. Then they tried to compare the results with the Department's statistics and to discuss the question with Department of Transport officials but could not reach any agreement with them.

The Shipping Federation pamphlet (App. 49 of the Shipping Federation Brief, Ex. 726), was based on statistics provided by the Department. The pilots qualified as "lies" the statement in this pamphlet to the effect that pilots work an average of six hours per day approximately eight months per year, and they also disagreed with the average gross earnings per pilot as quoted. The Pilots' Committee on Statistics set up in 1959 arrived at an average of nine hours per day instead of six and showed different amounts of earnings.

Despite the extensive work they did in the winter of 1960, the pilots failed to convince the Pilotage Authority's advisers that the Departmental statistics were basically wrong and gained the impression that the Departmental officials were deliberately trying to give a false idea of the pilots' work hours and remuneration. Although they held many meetings, the two parties were unable to come to any understanding. The question was referred to the Federation of Pilots and this was one of the disputed questions during the 1962 strike. No solution had been arrived at when the Commission's hearings took place.

For the purpose of preparing their brief the Pilots' Corporation chose fifteen pilots at random and asked them to keep actual statistics of their workload and expenses and to furnish this information on a strictly confidential basis. The workload report was to include the particulars of each assignment, such as date, nature, time called and departure time, and also travelling time, if any, and waiting period at home or away. A detailed breakdown of expenses was to be supplied, including transportation costs by taxi or other means, hotel charges, meals, telephone charges, tips either aboard ships or to boatmen or at hotels or for taxis, and other expenses such as cleaning and laundry. All the pilots were informed of the survey in a Corporation bulletin dated June 7, 1961 (Ex. 688). On June 12, 1962, the Corporation wrote the selected pilots to express the President's gratitude for the way they were carrying out this additional task and more forms were forwarded for completion.

This survey, based on 1106 trips, provided the following information about climatic conditions in 1962 (Table 1-A, p. 56—Pilots' Federation Brief, Ex. 671):

- (i) 53.4% were night trips; on 5.8% of these it was very dark;
- (ii) rain was met on 17.3% of the trips, fog on 22.2%, ice and snow on 4.2%, wind on 20.2%.

In analysing the average weekly hours of work of the pilots in 1962, they gave averages of the totals for the year brought down to a weekly basis

but did not take into account the number of trips. These figures show that in a week a Quebec pilot's time was spent on the average as follows as far as his pilotage duties were concerned (Pilots' Federation Brief, p. 60, Ex. 671):

- (i) For all the assignments the average pilot had during a week (according to the evidence, about four in peak periods), 16 hours 48 minutes elapsed between the time he was told by the despatcher to report to the ship and the time he had to report on board. In other words, he had more than four hours' advance notice each time.
- (ii) On various weekly assignments he had to wait in the aggregate one hour 57 minutes after the time he was to report (time ordered) before the ship sailed (time sailed), i.e., an average of 30 to 45 minutes each time.
- (iii) The average time he spent aboard a ship piloting during a week was 30 hours 36 minutes, i.e., 7 hours and a half for four assignments and 10 hours 12 minutes if he had only three assignments.
- (iv) Upon arrival, it took him one hour and 44 minutes to reach the pilot station from the vessels for all these assignments, i.e., about half an hour each time.
- (v) The total time between the time when he had to report on board and his arrival at the station after completing his trips amounted to 34 hours and 22 minutes. Taking into consideration detention prior to departure and travelling time from the ships to the pilot station plus pilotage time, the average was 11 hours for three assignments and 8 and a half hours for four assignments.

Further information provided contains time involved in compass adjustment and movages but, since these are done in Quebec on a voluntary basis and by a few volunteers only, the figures have little significance. Unfortunately, travelling time from the pilot's home to the station, from the station to the ship and between stations is not given.

With reference to the duration of trips, the verbal evidence adduced at the Commission's hearings indicated that a good trip with a fast ship between Quebec and Les Escoumins and vice versa lasted 9½ to 10 hours, an average trip 11 hours. Very fast ships may take a few hours less in exceptionally good weather, e.g., on August 30, 1963, pilot Rousseau did the trip in six hours and fifteen minutes at night (leaving at 2215 and arriving at 0430), in the *Manchester Commerce*, an 18-knot ship aided by favourable currents. Fast ships normally do 15 to 16 knots and average ships 12½ to 13 knots. Furthermore, trips are often lengthened when vessels have to proceed at reduced speed on account of fog, and in such weather they may even stop before entering the narrow part of the channel, e.g., when upbound prior to entering Coudres Passage. The average time between Les Escoumins and

Port Alfred is six hours and from Quebec to Port Alfred fifteen hours, adding one hour if the ship proceeds to Chicoutimi. In winter, the picture is different: trips are expected to last longer but there is no question of excessive workload because two pilots are despatched together (for further details, vide table, p. 464).

The Department of Transport had calculated the average duration of the trips (not turns) by computing from source forms the time spent by the pilots on each assignment and dividing the grand total by the number of trips. This gives the time spent by the pilots aboard vessels, i.e., from the time a pilot embarked to the time he disembarked or the time spent aboard ship and nothing else. The average time thus obtained does not take into account travelling time from the pilot's home to the pilot station and from there to the ship, nor travelling between stations, nor time spent at Les Escoumins or at ports other than Quebec away from home waiting for assignments. The average duration of a trip in a given year computed on this basis is as follows (Ex. 589):

Year	Average trip duration	Year	Average trip duration
1961.....	10.9 hours	1963.....	11.0 hours
1962.....	11.1 "	1964.....	11.2 "

The following table shows for the year 1968, including the winter months, for the average trip: for each particular type of trip in average figures the hours detained, the hours piloted, and the total duration of the trip from the time the pilot embarked until he disembarked; and, for the average winter trip: for the period January to April 8 and for the month of December, the same information.

	Average Hours Detained	Average Hours Piloted	Average Total Hours On Board
<i>Average Trip on Year Basis</i>			
Quebec—Les Escoumins.....	.6	9.4	10.0
Quebec—Port Alfred/Chicoutimi.....	3.8	13.5	17.3
Les Escoumins—Port Alfred/Chicoutimi.....	2.0	5.9	7.9
Average Duration.....	2.1	9.6	11.7
<i>Average Winter Trip</i>			
January to April 8.....	2.2	9.1	11.3
December.....	1.6	9.0	10.6
Average Duration.....	1.9	9.1	11.0

SOURCE: Ex. 589.



In discussions with the pilots the Department recognized that the pilot's time on duty is not only the time he spends on the bridge and acknowledged that he has to do some travelling and also to spend some time waiting, either aboard vessels or at the boarding stations, but the Department always refused to accept as working time, for statistical purposes, time spent by the pilots travelling from their homes to the pilot station on the ground that this is not counted in the working time of any other employee anywhere. In order to avoid idle discussions, the Department has confined its statistics exclusively to the time spent aboard ship and nothing else knowing full well, however, that this does not represent by any means the full time the pilots spend on duty.

Pilot Maurice Koenig is of the opinion that statistics are worth very little because what he considers important is not how many hours a pilot has worked during a week but the length of time he has spent on any particular assignment and the rest period he has had beforehand. In other words, was he rested when he took the assignment, was the assignment too difficult and was it too long? Furthermore, he believes that the computation of the number of hours the pilots spend on pilotage is not consistent with their status as professionals and independent contractors. He believes that statistics of this type are misleading and can be misinterpreted, especially by the man in the street.

The number of trips that a pilot might make, provided there was a constant demand, would vary with the length of the trips and the speed of the ships involved. That is why in the sailing ship era a pilot could do, at the most, fifteen trips per year and why their number had to be quite high to meet the demand, e.g., in 1860, the number of pilots in the Quebec District was 280. Despite the fact that many vessels were then propelled by steam, they were relatively slow and there were still many sailing ships.

Mr. Hamel recalled that the pilotage service had changed greatly since 1916 and there had been a marked increase in the number of both ships and pilots. Between Father Point and Quebec, an ocean-going vessel would take about 16 to 18 hours, and a large barge which was not obliged to take a pilot would take from 22 to 23 hours.

At times, due to uncontrollable and unforeseeable circumstances, the workload was either too low or too high. During the depression years and the war years there were too many pilots for the reduced workload. Since the pilots had not been appointed during pleasure and their licences were permanent until they reached retirement age, the only means of reducing numbers was by normal attrition, and it was not until 1949 that a balance between workload and pilots' strength was reached.

The pilots complained that in 1959 it was the reverse and that they were grossly overworked. Apparently, no one had foreseen the full impact on pilotage of the opening of the Seaway. The number of turns performed by pilots rose from 6,080½ in 1958 to 7,256½ in 1959, that is, an increase of 19.34 per cent (Ex. 597).

Pilot Rousseau charged that the pilots were so rushed that three of them died of overwork: two in 1959 and the third January 4, 1960, aboard the *Toronto City* off Father Point. He added that six or seven pilots became ill, mostly of heart ailments. One pilot had a stroke about an hour after boarding and the vessel was obliged to return to disembark him.

However, when the records are studied the situation does not seem to have been as bleak as indicated. In 1958, there were 72 pilots including two who died, one March 10, 1958, before the season opened, the other June 29, 1958, a third who resigned January 22, 1958, and a temporary pilot who was licensed November 14. In all, these four did only 22 trips, i.e., about one fourth the workload of an active pilot. In addition, five pilots were ill for various periods. However, without counting absences for illness or other reasons there were 68.5 pilots to take care of the workload in 1958. In 1959, no pilot resigned and there was no compulsory retirement. One pilot died October 29 after completing about four fifths of the normal workload and one pilot had his licence cancelled in the middle of August. Nine new licences were granted, three at the beginning of the season, five in the middle and one at the end, and between them these new pilots did the combined workload of 5.6 fully active pilots. Six pilots were ill for various periods and, without counting these absences, the 77 pilots who held licences during that year represented 74.5 fully active pilots. This amounted to a 9.2 per cent increase in year pilots over the 1958 complement.

These figures show that the Authority had provided for the expected increase in workload due to the opening of the Seaway but it turned out that its estimate was conservative. The average number of trips made by the fully active tour de rôle pilots rose from 88 in 1958 (2 reached 98 trips, one 95 and one 94) to 102 in 1959 (one did 112 trips and another 105). Thus, in 1959, the number of trips per year pilot showed a marked increase.

Nevertheless, while most special pilots did not receive enough assignments from their companies during those years and were obliged to make up their turns by serving on the tour de rôle, some were definitely overworked, e.g., in 1958, 10 special pilots did an average of 109 trips (one did 113, one 110 and five 109) and in 1959, although the discrepancy was not as great, 4 pilots did 105 trips, three 106, and seven between 107 and 113.

In 1960, the situation was corrected in three ways: the special pilot system was abolished thereby spreading the workload more evenly among all pilots; the length of trips was shortened by moving the station from Father Point to Les Escoumins; 13 new licences were issued, three to compensate for the decrease in strength caused by three deaths. Although the number of assignments increased slightly that year, the maximum number of trips completed by any pilot was 107. The other fully active pilots did between 104 and 106 trips, an average decrease over the previous year.

The abolition of the special pilot system also eased the workload and improved conditions by curtailing land travel. Under the old system, *tour de rôle* pilots often went by land to Father Point while at the same time special pilots were travelling from Father Point to Quebec to meet downbound vessels belonging to their company. After a trip from Father Point to Quebec lasting 16 to 18 hours it took longer to recuperate, but now with shorter trips and faster ships the pilots can make more trips per year with less hardship.

In 1959, when the pilots' workload was higher than usual, their performance was very good and they were congratulated by the Pilotage Authority.

Pilot André Bédard believes that the extreme limit of common sense was exceeded in 1959. He pointed out that it was not only a question of pilots' fatigue but also of ships' safety. He added that even after 1959, during peak periods, i.e., when traffic is intense for four or five days, a pilot may be called to spend three or four nights in a row on board. He recognized that this is one of the pilots' professional hazards and that they can not count on regular working hours.

The average number of total trips (assignments) and sharing turns (including free turns) per year pilot, for the period 1955 to 1968 inclusive, are as follows:

Year	Average per Year Pilot		Year	Average per Year Pilot	
	Trips (Assignment)	Sharing Turns		Trips (Assignment)	Sharing Turns
1955.....	87.4	86.7	1962.....	98.4	103.8
1956.....	87.2	86.7	1963.....	99.7	105.0
1957.....	86.7	85.1	1964.....	108.7	113.2
1958.....	90.1	88.8	1965.....	105.5	109.6
1959.....	99.6	99.0	1966.....	112.2	114.7
1960.....	99.1	101.6	1967.....	106.6	111.2
1961.....	97.8	102.7	1968.....	104.7	108.0

SOURCES: Tables on pp. 116 and 118.



The average number of trips per month in peak periods for a fully active pilot is 14 to 15. Pilot Rousseau stated that it would be about four trips per week in a peak period and pilot Dussault added that in the slackest periods (not including the winter months) it is very seldom that a pilot does not do at least one trip during a given week.

Even apart from the winter season, the pilotage workload is not regularly distributed. On account of various factors, some known, others unpredictable, the pilotage demand varies in volume and type from month to month and from year to year. It used to be an accepted fact that there was a recurrent basic pattern with peaks at the beginning and end of the regular season and lows in the summer months. After the ice cleared, the traffic was mostly upbound, thus creating a greater demand at the seaward station, and the reverse was true at the end of the season when vessels cleared the River before the ice formed. The shortage of pilots at the station where the demand was higher was met by transferring the necessary number by land.

The situation is still basically the same but only to a certain extent because of the increasing importance of winter navigation and also because vessels not reinforced for ice may now arrive somewhat earlier and depart somewhat later in the season since the ship channel is now kept open throughout the winter. There are also a number of unpredictable factors which make the demand pattern vary considerably, the most important being strikes which affect shipping directly or indirectly.

Appendix C is a graph showing the traffic pattern for the years 1963-1968 in trips performed by pilots on a per month basis. This graph shows clearly that winter traffic is constantly increasing but that it is still very small by comparison with even the least busy month in the regular season.

The considerable decrease in traffic in August and September 1967, is attributable to the 39-day long strike (Aug. 17-Sept. 25) of the Seafarers' International Union; the abnormal low in June and July 1968, was mostly due to the Seaway employees' 24-day strike (June 21-July 15). Traffic picked up sharply in August but decreased again in September on account of the 60-day Lakehead elevator employees' strike (July 18-Sept. 16). These are only three examples of the harmful effect of such strikes. For a number of years the District has experienced strikes, e.g., by longshoremen, which paralyzed the ports of Quebec, Three Rivers and Montreal, reduced the demand for pilotage and, hence, decreased the pilots' earnings.

The demand for pilotage has no set pattern. For the years 1962 to 1964 inclusive, the busiest months were October 1962, November 1963, and July 1964, while the least busy months were September 1962, May 1963, and September 1964 (Exs. 736 and 734). Furthermore, mainly due to the equalization of turns rule, pilotage is not equally divided among the pilots as

it would be if a normal tour de rôle were followed. Hence, the workload of the busiest pilot in a given month is not indicative, nor, consequently, is the actual workload of any of the pilots—not even those who were constantly available. The only significant figure is the average per pilot available for duty.

In 1962, the busiest pilot in the busiest month was pilot David Bouffard who performed 20 trips: 8—Quebec-Les Escoumins, 11—Les Escoumins-Quebec, 1—Port Alfred-Les Escoumins (Ex. 736), despite the fact that he is shown as absent for six days. The pilots who were always available during the same month performed between 12 and 16 trips. The explanation for the excessive number of trips performed by pilot Bouffard is that earlier in the season he was off duty through illness (he had only one assignment in July) and that he was endeavouring to catch up in October. According to Ex. 644 pilot Bouffard was absent 94 days in 1962 but, at the end of the year, he had performed 101 turns out of a maximum average of 108 (Ex. 597). Pilot Bouffard obviously had elected to catch up the missed turns rather than apply for illness benefits since he was not credited with any indemnity turns.

During October, which was the busiest month in 1962, the workload was shared among the pilots as follows (Ex. 737):

Number of Pilots	Trips (Assignment)			Days Absent	
	Per Pilot	Total	Average	Total	Average
1	20	20		6	
1	18	18		1	
1	16	16		0	
12	15	180		16	
23	14	322		42	
14	13	182		64	
13	12	156		49	
5	11	55		39	
1	10	10		18	
2	9	18		32	
1	5	5		25	
1	2	2		29	
75	available for duty	984	13.1	321	4.3
2		0		62	
77	pilots on strength	984	12.8	383	5.0

According to the evidence given by the Pilotage Authority, the busiest pilot during the least busy month in 1962, i.e., September, was pilot J. H. F. Vézina who did fifteen trips and two movages. The pilots who were not absent at all did between 14 and 10 trips that month.

The workload was shared as follows:

Number of Pilots	Trips (Assignment)			Days Absent	
	Per Pilot	Total	Average	Total	Average
1	16	16		2	
4	15	60		12	
9	14	126		16	
15	13	195		45	
20	12	240		25	
13	11	143		26	
10	10	100		48	
2	9	18		30	
1	3	3		18	
75	available for duty	901	12.0	222	3.0
2		0		48	
77	pilots on strength	901	11.7	270	3.5

In 1963 and 1964, the busiest pilot in the busiest month performed 17 trips (November) and 14 trips (July) respectively, and in the least busy month performed 18 trips (May) and 13 trips (September) respectively. As in the case of 1962, these figures are not, however, representative of the workload shared by all the pilots.

The following table, based on the 1968 statistics, gives a picture of the distribution of trips piloted for the whole year, including the winter months:

	Number	Per Cent			
		Vessels		Assignments	
<i>Nature of Trip</i>					
Quebec—Les Escoumins:					
full trip.....	7,109	84.7		77.6	
2/3 trip.....	85	1.0		0.9	
1/3 trip.....	140	1.7		1.5	
	7,334	87.4			80.0
Saguenay River:					
Quebec—Port Alfred/Chicoutimi.....	440	5.2		4.8	
Les Escoumins—Port Alfred/Chicoutimi.....	611	7.3		6.7	
Saguenay intermediary ports	8	0.1		0.1	
	1,059	12.6			11.6
Total Trips (Vessel).....	8,393	100.0			91.6
<i>2nd Pilot, Winter Months</i>					
January—April 8.....	288			3.1	
December.....	482			5.3	
	770				8.4
Total Trips (Assignment).....	9,163				100.0



The number of trips a pilot may do in a season on the Saguenay River varies from year to year according to the hazards of despatching, but most assignments are on the St. Lawrence. This is further proved by the information contained in Exhibits 733 to 736 inclusive which show the duration of the trips made by pilot Cloutier in June 1962, 1963 and 1964, by pilot Lafleur in September 1962, and by the busiest pilot in the busiest month and the least busy month of those three years. The table below shows all the trips performed by those pilots in ten pilot work months, with the exception of five trips: one from Les Escoumins to Quebec for which the complete duration was not indicated; one trip from Les Escoumins to Red Islet and return; one trip from Lauzon to St. Jean; one from St. Jean to Quebec; and one from Les Escoumins to Lauzon. This analysis indicates the duration of the trips and also the incidence of various types of trip.

Duration of Trips	Quebec— Les Escoumins	Quebec—Port Alfred/Chicou- timi	Les Escoumins— Port Alfred/ Chicoutimi
between			
22-23 hrs.....	2		
18-19.....	1		
17-18.....	1		
15-16.....	2		
14-15.....	2	2	
13-14.....	7		
12-13.....	8		
11-12.....	10		
10-11.....	16	1	1
9-10.....	26		
8- 9.....	37		1
7- 8.....	13		1
6- 7.....	1		2
5- 6.....	1		2
4- 5.....			1
Total Number of Trips.....	127	3	8

As for time between assignments, ex-Supervisor Maheux stated this always exceeded 12 hours and might even be 48 to 72 hours depending upon the amount of traffic (as will be seen later this is not altogether true now-days). During Mr. Maheux's many years at the Quebec pilot station a pilot was seldom reassigned the same day unless he was low on turns because of absence or illness and had asked to be replaced on the list in order to make up his turns. Thus, while this pilot would have rather short rest periods, all the other pilots would have more than their normal rest period that day.

During the summer there are normally about 20 pilots on the assignment list at Les Escoumins. They wait for some 15 hours before boarding another vessel. On the assignment list of July 6 and July 7, 1965 (Ex. 1454), the time between assignments at Les Escoumins was as follows:

- (i) of 2 Grade A pilots, one remained 21.9 hrs. and the other 5.1 hrs.;

- (ii) 6 Grade B pilots remained respectively 10.9 hrs., 11.1 hrs., 20.9 hrs., 10.7 hrs., 13.3 hrs., and 11.4 hrs.;
- (iii) 2 Grade C pilots waited 15.4 hrs., and 15.3 hrs.

Each pilot has approximately 12 to 15 trips by land between stations per year. Although a pilot is shown as having had an even number of outbound and upbound trips, this does not mean he did not have to travel by land because in the spring, for instance, the trend is westward and, therefore, most of the pilots have to travel by road to Les Escoumins, while in the fall it is the reverse.

From the same Exhibits 733 to 736 inclusive, eight pilots took land transportation thirteen times in their aggregate 10 work months, i.e.,

Quebec to Les Escoumins	7 times(s)
Quebec to Port Alfred	1 "
Les Escoumins to Quebec	3 "
Chicoutimi to Quebec	1 "
Les Escoumins to Port Alfred	1 "

Total: 13 times

Movages from 1960 to 1968 totalled:

1960 — 901 movages	1965 — 1015 movages
1961 — 853 "	1966 — 1057 "
1962 — 704 "	1967 — 1052 "
1963 — 825 "	1968 — 493 "
1964 — 827 "	

These movages include those performed in the harbour of Quebec and elsewhere in the District. As seen before, a movage in Quebec is done by a group of pilots who volunteer for that type of work between their normal assignments in addition to the tour de rôle. In other harbours, the movages are done by the pilots who happen to be there; if there is none present, a pilot is despatched specially for that purpose from one of the two pilot stations.

From boarding time to disembarking time, a movage from the St. Charles River Basin to Wolfe's Cove averages two hours. The longest movages in Quebec harbour are from any berth to the inner Princess Louise Basin. These occur frequently. Most of the ships involved are colliers. The width of the gate is 63 feet and ships are brought in with a beam allowance of only a few feet on each side.

From Exhibits 733 to 736 inclusive, the same eight pilots during the aggregate ten months concerned totalled 15 movages:

At Quebec	4
At Chicoutimi/St. Fulgence	7 (shuttle to lighter a tanker)
At Port Alfred	3
At Les Escoumins	1

It is a known fact that the measure of a pilot's time on duty is not merely the time spent aboard ships actually performing pilotage. Unless he is on leave or taking his ten-hour rest periods, the pilot is never master of his time and, even when he is home, he must remain within reach since he is never sure when he will be given an assignment. He must always be available so as not to keep ships waiting. Other portions of his time fall even more within the definition of pilotage duties, in the true meaning of the term, but in varying degrees, such as detention time on board, time spent at a boarding station away from home awaiting assignment or awaiting a ship behind her E.T.A., travelling time between boarding stations, etc. Furthermore, it is also a known fact that his working hours are quite irregular.

To give a clear view of how a pilot's time is spent during a given month, pilot Paul-Emile Cloutier, a Grade B pilot, kept a log of his pilotage activities for the month of June for the three years 1962 to 1964 inclusive (Ex. 733). Appendix B is a chart of each together with an analysis. *Inter alia*, the following conclusions can be drawn:

- (i) The distribution of his time on a 24-hour day basis was as follows:

	June 1962		June 1963		June 1964	
	Number	Aggregate duration	Number	Aggregate duration	Number	Aggregate duration
Trips.....	13	123h. 5 min.	11	107h. 10 min.	14	155h. 30 min.
Movages.....	1	1h. 15 min.	nil	nil	nil	nil
Cancellation.....	nil	nil	nil	nil	1	25 min.
Detention.....	1	30 min.	nil	nil	1	7h. 55 min.
Land travel.....	nil	nil	nil	nil	2	11h. 20 min.
Waiting at out-ports for assignments	7	6 days	5	10 days	8	11 days
		17h. 15 min.		3h. 15 min.		2 h.
At home between assignments including rest periods and leave, if any		18 days		15 days		11 days
		1h. 55 min.		9h. 35 min.		14h. 50 min.
Total.....		30 days		30 days		30 days

- (ii) Between assignments he always had more than the minimum ten-hour period of rest. The different methods of despatching between the Quebec station and the other boarding stations are apparent. In June 1962, he was never less than two days at home in Quebec (minimum 2 days 7 hrs. 55 min. and maximum 4 days 14 hrs. 25 min.) but in other ports this never exceeded two days (minimum



11 hrs. 45 min., maximum 1 day 16 hrs. 20 min.). In June 1963, the pattern was the same except for one abnormal period of 3 days 18 hours at Les Escoumins which, it is surmised, was a period of leave that he took there. This is permissible and is occasionally enjoyed by some pilots. In June 1964, however, waiting time between assignments at Les Escoumins was much longer (minimum 8 hrs. 50 min., maximum 2 days 20 hrs. 35 min.) and time at home was much shorter (minimum 17 hrs. 20 min., maximum 1 day 15 hrs.).

- (iii) With reference to irregularities in working hours, in June 1962, on six out of 13 trips, he was piloting at midnight, and on seven at noon. His moveage was performed between 0300 and 0400. In June 1963, out of 11 trips, on three he was piloting at midnight and on four at noon. In June 1964, out of 14 trips, on four he was piloting at midnight and on 11 at noon (on three of these he was piloting both at midnight and noon because the trips lasted longer than 12 hours).

For the busiest pilots in the busiest month and in the least busy month, a similar analysis is found in Appendix C. The pattern is the same with obviously shorter periods at home between assignments because the busiest pilots had to take an abnormal share of the work to catch up with the others. On five occasions during their busiest month and three times during their least busy month the busiest pilots did not have ten-hour rest periods (entitlement since reduced to 7 hours) at Les Escoumins but in July 1964, this happened to pilot H. Brochu four times in Quebec City, once between an assignment and a land trip. In all cases, the pilots concerned must have felt sufficiently rested because they were fully entitled to refuse these assignments.

On one of these occasions a pilot had only 1 hr. 10 min. at Les Escoumins between assignments, i.e., from the time he disembarked from the downbound ship until he boarded the upbound vessel he had no rest at all, since most of the time was spent in the pilot boat between the vessel, the pilot station and the second ship. On November 10, 1963, he arrived at 13:08 after a 15 hrs. 55 min. night trip from Quebec. He re-embarked for Quebec for another trip which lasted 9 hrs. 55 min. and finished past midnight. That made a total of 27 hours between his departure from, and return to, Quebec. It is obvious that this pilot was not well rested when he embarked for the return trip, that he was a safety risk and that such despatching should not have been allowed by the officer-in-charge at Les Escoumins. The Pilotage Authority has reported that this incident occurred when the position of pilotage officer at Les Escoumins was vacant and the acting officer-in-charge was off watch; due to unusual circumstances a number of downbound pilots

had been overcarried because of bad weather and there was a shortage of pilots for incoming vessels; the pilot concerned volunteered to return with the ship which would otherwise have been delayed. The Pilotage Authority pointed out that there has been no regulation up to this time to prohibit any pilot being assigned to a job before he has 10 hours' rest if he has expressed his willingness to proceed, but the feasibility of such a rule is now being considered, always provided there will be assurance that ships will not be delayed in an emergency (D.O.T. letter January 10, 1966—Ex. 1461(s)).

#### COMMENTS

The foregoing analysis indicates, on one hand, that the Quebec pilots are not overworked and, on the other, that with the reorganization of the despatching system it could be possible to reduce the wastage of pilots' time. The only exceptions are the occasional ones who are behind in turns as a result of absence and who, on account of the wrong interpretation given to the rule of equalization of turns, are allowed to equalize, to miss no opportunity to do so and thereby overwork themselves to the prejudice of safety.

The equalization of trips rule as it is applied is a source of wastage of pilots' time in that pilots who have been constantly available are being forced into idleness to permit those behind in turns to equalize. Whatever the method of despatching, the number of pilots should be those necessary to meet the pilotage requirements in expected periods of peak demand of reasonable duration while providing the pilots with sufficient rest between assignments. Pilotage is a service and, therefore, it should be organized in relation to the demand that exists for it. One factor is the irregularity of the demand but generally, as in the Quebec District, there is a predictable pattern, although requirements vary from month to month. During periods of high demand the pilots should be expected to forego holidays and work harder, provided they have ample rest between assignments. Such a requirement necessarily conflicts with a system of automatic, preset compulsory holidays. Their number should be established so that the pilots are fully and equally occupied during such periods. Apart from the holidays which should be provided, they are also compensated for intensified work during peak periods by longer periods of rest in between assignments during periods of low demand. Statistics of the distribution of the workload among the pilots during the busiest months clearly show that the workload was not equally divided. This would indicate that the pilots were then over strength.

The equalization rule, even if it were effectively applied, is not calculated to ensure equitable sharing of the workload since it does not take into consideration the actual duration of assignments or the long periods of travelling and waiting time at sub-stations—a situation which does not occur where a true *tour de rôle* is followed. The latter system works well elsewhere, e.g., in the District of British Columbia where there is great disparity in the

duration of the voyages pilots are called upon to perform and where they have to travel extensively by land or air.

Travelling time and waiting time when pilots can not rest form part of the pilots' workload and must be taken into consideration. Pilots must be given full opportunity to have adequate genuine rest between assignments; this is a question of safety.

On account of the direct relation between the number of pilots and their remuneration, these are essential factors in a system of controlled pilotage where the pilots are not paid a fixed salary. It is most essential that the wastage of pilots' time be reduced to a minimum and the number of pilots determined accordingly.

## 6. PILOTAGE REVENUE AND TARIFF

### PREAMBLE

Tariff rates have a direct impact on the Quebec pilots' remuneration because they are not employed on a salary basis but their remuneration is directly related to their pilotage earnings. According to the By-law, their remuneration is purported to be the actual pilotage earnings their services have earned, less compulsory deductions for the Pension Fund and for certain operating expenses, i.e., pilot vessel hire at Les Escoumins and occasional radiotelephone rental charges. The fact that the actual situation is different in that the Quebec pilots pool most of their pilotage earnings does not alter the situation to any appreciable extent. The Quebec pilots remain directly interested in the amount of each item in the tariff, especially because of the incomplete pooling system they have adopted which affects only trip revenues. Revenue yielded by the other items, although very small compared to total earnings, becomes substantial for the pilots who rendered the service, e.g., Grade A pilots and those performing movages in Quebec, since revenues from these items are not pooled but accrue directly to the pilot who earned them. This is the reason for the disproportionate importance placed during tariff negotiations on items whose yield in the aggregate is negligible.

For the purpose of this study, pilotage dues have been listed in two groups: those accruing directly to the pilots, i.e., their net earnings including amounts paid to their Association and to the Pension Fund on their behalf; and those paid on the pilots' behalf to the Receiver General of Canada in lieu of payment by them for pilot vessel service at Les Escoumins and for the cost of renting from D.O.T. portable radiotelephone sets when these are required.

The tariff does not provide a method of calculating dues for a composite navigation unit (Part I, p. 181) and, although the need for it seldom arises in the Quebec District, it should be covered in the tariff.

The following table analyzes District pilotage earnings thus grouped for the years 1955, 1959, 1964 and 1968. In addition, the general relative importance of each item of dues accruing to the pilots is given in percentage.



## COMPARATIVE ANALYSIS OF EARNINGS AND DISTRIBUTION OF PILOTAGE DUES

Pilotage Dues	1955	1959	1964	1968
<b>A. PILOTAGE DUES EARNED</b>				
<b>I. Dues Accruing to Pilots</b>				
1. Earned by Pilots:				
(a) Trips				
Tonnage.....	\$99,252.77	\$214,683.91	\$322,281.80	\$438,404.41
Draught.....	615,145.14	809,318.82	949,468.08	1,150,137.88
Class "A" vessels.....	—	—	21,575.00	48,842.37
Winter tariff.....	—	—	47,699.83	79,930.79
				4.5
Total earned by trips.....	714,397.91	1,024,002.73	1,341,024.71	1,717,315.45
(b) Movages.....	19,347.50	23,467.50	18,655.00	30,798.50
(c) Detention.....	6,923.50	6,940.00	10,425.00	15,721.39
(d) Cancellation.....	144.00	240.00	400.00	315.87
				0.01
Total Earned by Pilots.....	740,812.91	1,054,650.23	1,370,504.71	1,764,151.21
				99.8
2. Compulsory Payment: Trips and Movages*	4,111.59	7,732.07	5,237.67	2,976.83
				0.2
Total Dues Accruing to Pilots.....	\$744,924.50	\$1,062,382.30	\$1,375,742.38	\$1,767,128.04
	100.0%	100.0%	100.0%	100.0%
<b>II. Dues Accruing to Receiver General of Canada</b>				
1. Pilot Boat Fees.....	—	—	\$153,920.00	\$151,980.00
2. Radiotelephone Charges.....	—	—	—	16,095.00
Total Dues Accruing to Receiver General of Canada.....	—	—	\$153,920.00	\$168,075.00
Total Pilotage Dues Earned**.....	\$744,924.50	\$1,062,382.30	\$1,529,662.38	\$1,935,203.04

## B. DISTRIBUTION OF PILOTAGE DUES EARNED

## I. Payable to, or on behalf of, Pilots

## 1. Payable to Pension Fund on behalf of Pilots:

(a) Compulsory deductions.....	\$51,856.86	6.9%	\$73,825.51	7.0%	\$137,050.47	9.9%	\$176,458.35	10.0%
(b) Compulsory payment of dues.	4,111.59	0.6	7,732.07	0.7	5,237.67	0.4	2,544.57	0.1

## Total Payable to Pension Fund on behalf of Pilots.....

	55,968.45	7.5	81,557.58	7.7	142,288.14	10.3	179,002.92	10.1
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## 2. Payable to Pilots (Association).....

	688,956.05	92.5	980,824.72	92.3	1,233,454.24	89.7	1,588,125.12	89.9
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## Total Payable to, or on behalf of, Pilots

	744,924.50	100.0%	1,062,382.30	100.0%	1,375,742.38	100.0%	1,767,128.04	100.0%
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## II. Payable to Receiver General of Canada.

	—		—		153,920.00		168,075.00	
Total Distribution of Pilotage Dues Earned	\$744,924.50		\$1,062,382.30		\$1,529,662.38		\$1,935,203.04	

\*All trips except for 1964 which includes \$90 movage fees.

\*\*This should be the actual cost to shipping with the addition of the cost of pilot vessel service hire in the harbour of Quebec and the unofficial remuneration paid to apprentices.

Since 1955, the tariff has been amended many times and new items added. The evolution of the tariff is studied in the following pages under each tariff item.

After the creation of this Royal Commission, the pilots and shipowners agreed that the tariff structure, as such, should not be altered until the Commission's Report was made public. In order to effect the necessary readjustments to provide the pilots an adequate income, the device was adopted of overall surcharges applicable to all items, with the exception of movage charges for which a special surcharge was provided.

The first surcharge was granted in 1965 and amounted to 50 per cent on movages and 8 per cent "on all other pilotage charges". Despite the generality of this expression, the surcharge was applied only to the dues accruing to the pilots and not to pilot boat charges or radiotelephone rental charges. While the 50 per cent surcharge on movages has remained unchanged since then, the other surcharge was successively increased to 13, 17 and 22.85 per cent in 1966, 1967 and 1969 respectively. In the Pilotage Authority's annual reports these surcharges are reported as separate items of revenue and the general surcharge is not segregated by the items to which it applies. Hence, in the following comparative table the total amount accrued in 1968 from the general surcharge has been prorated among the various items affected and added to the amount of earnings shown for each item in order to convey the true picture and present figures comparable with those of the pre-surcharge years (Ex. 1538(o)).

#### (1) PILOTAGE VOYAGE CHARGES (TRIP CHARGES)

Income from this type of pilotage service has always accounted for most of the earnings accruing to the pilots. The earnings yielded by the four factors entering into the computation of the aggregate trip charge accounted for 95.9 per cent in 1955 and 97.2 per cent in 1968.

According to the District tariff structure (apart from pilot vessel charges and the radiotelephone rental charges which are basically components of the trip charges, although under the existing arrangements they do not accrue to the pilots), there are three types of charges that may apply to the computation of dues for pilotage performed during a trip: basic rates, Class A charge and winter tariff. There is no provision for an increased charge in the case of a trip involving a dead ship.

##### (a) *Basic Rates*

Prior to 1952, the basic rate, apart from the distance factor, was based on draught only (vide evolution of tariff, pp. 77-78), but when the tariff was revised in 1952 the basic charge comprised two components: draught and net



registered tonnage. For the full trip between Father Point and Quebec, the charge per foot draught was fixed at \$5.20 with 16 feet as a minimum charge. For the longer voyage between Port Alfred and Chicoutimi and Quebec, it was fixed at \$6.50. These charges have not been altered since, except through the overall surcharges between 1965 and 1969.

The draught rate has always been the single most important factor, a holdover from the time when it was the only factor. In 1955, it accounted for 82.6 per cent of the total earnings; in 1968, for 65.1 per cent, the reduction being due to the increase in the tonnage charge, the introduction of new items and also the increase in the size of ships which has no direct relation to draught.

The tonnage component, however, has been increased twice since 1952, not counting surcharges. When it was introduced in 1952, it was fixed at one-half cent per ton with a minimum of 2,000 tons and a maximum of 7,500 tons. When the By-law was revised in 1957, the charge was raised to three-quarters of a cent per ton, and effective January 1, 1961, the maximum was raised to 15,000 tons.

In their Brief (p. 88), the pilots recommended that the tonnage charge ceiling be abolished. They pointed out that this is a matter of principle, i.e., that a ship should be charged according to her size, although financially speaking it would not make a great deal of difference since very few ships entering the District exceeded 15,000 tons. However, this statement of fact will soon be no longer true: with the trend to larger vessels and the proposed deepening of the North Traverse, a greater number of larger vessels can be expected.

As seen earlier, for tariff purposes, the distance factor is taken care of by dividing the basic trips into sectors, three sectors between Father Point and Quebec or Father Point and Chicoutimi, and four sectors between Chicoutimi and Quebec (p. 114). The appropriate fraction of the basic rates is charged for trips wholly completed in one or two sectors. The great majority of trips are full trips, e.g., in 1968 (Ex. 589) out of a grand total of 9,163 trips (assignments) there were one hundred and forty  $1/3$  charges, eighty-five  $2/3$  charges on the St. Lawrence River and eight intermediate trips on the Saguenay River. The remainder (8930) were full trips.

The tariff does not contain a special item for *trial trips* which, on account of their nature, should be based on time and not on distance run, especially when calculated according to the sector method used in Quebec (Part I, p. 160). However, in the absence of special provisions in the tariff for this type of trip, the regular trip rates should be applied but this would result in grossly inequitable charges. The matter was settled by an illegal solution, i.e., leaving it to the District Supervisor to determine the number of trips, or fractions of trips, to be charged in each case. No separate record is

maintained of the revenue from trial trips. The Commission was informed that, despite the presence of shipyards in the District, there are very few such trips.

The financial information in the Pilotage Authority's annual report contains an item of revenue termed "Tonnage Overcharge" which is not provided for as a separate item anywhere in the By-law. In fact, it is part of the tonnage charge resulting from the readjustment that has to be made in the tonnage of ships from certain foreign countries to make their tonnage measurements agree with the British system (Part I, p. 168). It is not a separate item of revenue but is segregated merely for information. The revenue derived from this readjustment is very small, 0.3 per cent in 1964. It is considered that no useful purpose is served by segregating it and in the comparative table above, the revenue yielded from the tonnage overcharge has been included in the tonnage total.

Despite the fact that pilotage has not been performed between Father Point and Les Escoumins since 1960, the tariff provisions have not yet been changed and the full charge is levied as if the full trip were still performed. Technically, however, full dues are chargeable because the trip takes place in three zones, although it commences and finishes at Les Escoumins.

(b) *Class A Additional Charge*

This is a new charge introduced when the special pilot system was replaced by the system of grade pilots in 1960 (p. 254). It is the bonus granted to a Grade A pilot each time he pilots a ship belonging exclusively to his grade, i.e., vessels over 10,000 tons and other vessels that the Authority may designate (By-law, Schedule A, subsec. 1(11)). However, this additional charge is not made conditional on the employment of a Grade A pilot but is expressed in the form of a surcharge affecting a category of vessels which applies automatically. The former Supervisor, Mr. Maheux, stated that a Grade B pilot may occasionally be assigned to a Class A ship, generally as a result of incomplete information about the ship's class when the assignment is made. In such a case, the Grade B pilot is allowed to pilot the ship if other arrangements would cause delay. However, the Class A additional charge is made all the same, since it is not contingent on the employment of a Grade A pilot.

The surcharge is \$25 per trip. This item, like the others, is also affected by the general surcharge of 1965 as amended.

The pilotage of a ship over 10,000 tons by a pilot other than a Grade A pilot causes two problems. First, there is a problem of safety since the grades have been designed for the safety of navigation with the more difficult assignments being the responsibility of the Grade A pilots. Therefore, steps should be taken to guard against such an error. In this regard, the particulars that a ship is required by Notices to Mariners to give the Pilotage Authority

when requesting a pilot are totally deficient (p. 442). Since it is a question of safety, if the error in despatching is discovered before the ship has departed, the ship should be delayed until a Grade A pilot is available, and the despatcher should never take upon himself the responsibility of allowing a pilot who by law is deemed to be incompetent to pilot such a ship to perform the assignment. Since, however, it is not compulsory to employ a pilot, there is no objection if a pilot of another grade is given the assignment, provided the Master is made aware of the situation and gives his consent.

The second problem is created by the pilots' pooling procedure whereby Class A vessel additional charges can be attributed to Grade A pilots only (vide p. 480). Since according to the prevailing By-law a pilot's remuneration is the dues his services have earned as determined by the tariff, a Grade B pilot who pilots a Class A ship under these circumstances is legally entitled to the Class A charge. In fact, under the pilots' own pooling arrangements the Class A charges accruing to Grade B pilots form part of the pool, while those earned by Grade A pilots do not.

This item was added to the tariff in 1960. The revenue it yields is small in the aggregate, 1.6 per cent and 2.8 per cent of the pilotage earnings in 1964 and 1968 respectively. However, since this additional charge is attributed to the Grade A pilots who have performed the services, in accordance with the pooling rules adopted by the pilots, it may be a substantial amount for the individuals concerned.

In the years prior to 1960, a larger number of pilots received the special bonus for each trip granted by the shipping companies to their special pilots. It was not a pilotage due but a gratuity as an inducement to continue in their employment as special pilots. The exact amounts paid in this way could not be accurately ascertained because they were not reported to the Pilotage Authority but it was estimated in 1960 that the loss of these gratuities represented an aggregate amount of \$65,000 (vide p. 354). In 1955, this extra unofficial revenue was estimated by the Pilotage Authority at \$51,160 divided among 40 pilots; in 1959, \$58,000 among 39 pilots. In 1964, the Class A vessel additional charge, before the Pension Fund deductions, reached \$21,575 divided among 10 pilots, and in 1968, \$48,842.37 divided among 34 pilots (vide p. 464).

#### (c) *Winter Tariff or Assistant Pilots' Remuneration*

This is another new item which was incorporated in the tariff in 1960 (Schedule, sec. 6). It is a surcharge which applies to all trips from December 1 to April 8, whether one or two pilots have been assigned. The winter surcharge equals trip dues but with a ceiling of \$100. This ceiling, like other tariff items, has been affected since 1965 by the general surcharge as amended. Under the impact of increasing winter navigation and the surcharge, this



source of revenue rose from \$19,211.04 in 1960 to \$86,522.61 (including the general surcharge) in 1967, but fell to \$79,930.79 (general surcharge included) in 1968.

For a great number of years prior to 1960, it had been the practice for a second pilot to accompany a pilot assigned during the winter but this was done outside the By-law. Authority for the despatcher to assign two pilots to a ship in winter was given at the same time the winter charge was introduced by adding subsec. 9 to sec. 15 of the By-law. Before that, it was illegal to assign more than one pilot to a ship at any time, except to a composite navigation unit.

However, for reasons of safety the shipping companies had long accepted unofficially that the assigned pilot should be accompanied by another pilot who volunteered. They paid this second pilot for this special service an amount that varied over the years. Since it was not officially pilotage money, it was not collected by the Pilotage Authority but paid direct by the company to the pilot concerned and, therefore, there is no record of the aggregate amount.

The intention in 1960 was to regularize the *de facto* situation. Double despatching was a safety measure warranted by the nature of winter assignments and their particular hazards and circumstances. The winter charge was to replace the unofficial remuneration paid to the second pilot. The pilots asked that they receive full remuneration but this was only partially granted.

However, this intention was not reflected in the tariff. The additional winter charge was not linked to the employment of the second pilot but merely made a charge applicable to all winter trips during the winter period as defined therein, whether or not a second pilot was actually on board. In fact, at times when there is a shortage of pilots, only one pilot is despatched rather than delay the ship but, according to the tariff, an additional winter charge is due and is collected.

In theory, this creates a number of legal problems since the dues are the remuneration of the pilot who has rendered the services and subsec. 9(1) of the By-law obliges the Pilotage Authority to pay him such dues. When there is only one pilot, he is legally entitled to the full amount of the pilotage dues paid by the ship for the trip (less the Pension Fund deduction) including the winter charge. When there are two pilots there is no provision in the By-law to determine the division among them of such dues. It could be assumed that the intention was that the winter additional charge is the remuneration of the second pilot, but again the By-law provides no means for deciding which of the two pilots is to be considered the second pilot and, hence, should receive the lesser share.

In practice, however, there is no problem since, according to the private pooling arrangements of the pilots, this item is also pooled. It is obvious that

the text of the tariff provision was written in relation to the factual situation without it being realized that the legal problem created could become an actual problem if a pilot refuses to join the pooling agreement or succeeds in liberating himself from it. This tariff provision in its present wording is incompatible with subsec. 9(1) of the By-law, and the mode of remuneration which it provides for the pilots is the only legal and permissible one under the circumstances.

#### COMMENTS

Here, as in most Districts, there is no valid reason why the draught factor should be retained. It is not warranted by any peculiarities of the District but is merely a holdover from the distant past when draught was the only readily available information about a ship that could be easily verified. For further comments, reference is made to Part I, pp. 161-164.

It is considered that the basic trip charge in the Quebec District should be based on tonnage and distance run. In view of the fact that river pilotage is involved, there is no objection if the sector system is retained.

For the reasons advanced in Part I, pp. 178-181, it is considered that the system of a ship's unit based on maximum gross tonnage should be adopted.

Reference is made to Recommendation No. 6 regarding the creation of a berthing and unberthing charge separate from the trip charge.

The Commission agrees with the pilots that there should be no ceiling on the tonnage charge, but there should be a minimum charge so that the services of a pilot are not wasted on small vessels and craft which generally have no need for pilots and which on no account should be forced to employ a pilot. If they wish to obtain the services of a pilot occasionally, they should be expected to pay a reasonable price.

There is, however, no valid reason for retaining the Class A ship surcharge if the tonnage ceiling is abolished and maximum gross tonnage becomes the basis for the trip charge.

The tariff should provide a special charge for trial trips based on the maximum gross tonnage of the ship and the time involved. Distance run is not a governing factor in a trial trip and the system in effect in Quebec based on zones to calculate distance is totally inconsistent and should not be applied to trial trips. On account of the presence of shipyards in the District, pilotage for trial trips is a service for which a rate should be specially provided in the tariff.

It is considered that it is a serious omission in the tariff that no special rate is provided for a trip with a dead ship. The normal practice should apply and the tariff should provide that for such trips (just as for movages) the normal dues should be increased by 50 per cent.

## (2) MOVAGE RATES

The charge for movages takes the form of a series of flat rates for various defined types of movage. The size of the ship is not taken into consideration.

Rates are provided only for the harbour of Quebec, the Saguenay River and the trip from Father Point to Rimouski.

The rates vary between \$15 and \$30, to which should be added the 50 per cent surcharge which has been applicable since 1965.

The tariff provides for a movage charge to be added to the trip charge in one special case, i.e., when the ship is bound to the wet dock portion of the Princess Louise Basin if the pilot has been on continuous duty for more than 15 hours at that time, excluding time at anchor.

The provision for a movage charge for a pilotage trip from Father Point to Rimouski is in conflict with the definition of movage contained in the interpretation section of the By-law—a movage means moving a vessel within a harbour—unless Father Point is within the limits of the harbour of Rimouski whose eastern limit was the boundary between the township of Rimouski and Lessard as it was in 1877. This, however, is now only a theoretical problem because the pilots have not been providing pilotage services at Rimouski since the seaward pilot station was moved to Les Escoumins.

There is the same conflict with regard to subsec. 2(1)(f) of the tariff which shows as a movage piloting a ship from any of the wharves in the harbour, or from anchorage to the explosive grounds or vice versa, the explosive grounds being situated outside the harbour limits downstream off La Martinière. The Pilotage Authority has now solved the dilemma by disregarding the provisions of subsec. 2(1) of the tariff. Since December, 1965, a move from the explosive grounds is no longer considered a movage (for pilotage charges) but rather one third of a trip (Ex. 1538(p)). The By-law in this regard is obviously deficient and should have been corrected as soon as the discrepancy was discovered. A move from the explosive grounds to a berth or an anchorage in the harbour is not a trip but a special type of movement for which a rate should be specifically provided. The attitude taken here is wrong since rates fixed by legislation should be couched in clear language and, if there is ambiguity or conflict, the benefit of interpretation should be in favour of the payer, i.e., he should pay the lesser charge.

Except for the Saguenay River—and there only in a limited way—no rate is provided for a movage at any other port or landing place within the District. Presumably there is no actual need at the moment for such a provision but it is considered an eventuality that should be foreseen in the tariff.

In the case of a dead ship the movage rate is increased by 50 per cent.



The pilots complained in 1963 that the charge was totally unrealistic for the work done and the time involved, considering that they had to pay their own travelling expenses from home to the ship and return no matter where the movage had to be performed—Chicoutimi, Rivière-du-Loup, Rimouski or Quebec. As seen earlier, this grievance has since been remedied by the imposition of the 50 per cent surcharge on all movage rates.

The pilots endeavoured to have a movage charge added to the trip charge whenever a berthing or an unberthing was involved. This was a proposal to the Minister when they met him on February 26, 1962, as an alternative to their previous proposal that berthing pilots be provided in Quebec. The suggestion was not favourably received (Ex. 688, Bulletin March 9, 1962).

Since most pilotage traffic is composed of ships in transit, the dues yielded by movage rates—despite the 50 per cent surcharge—remain a small item compared to the rest of the District earnings. They rose from \$19,347.50 in 1955 to \$30,798.50 in 1968, representing 2.6 per cent and 1.7 per cent respectively of the District earnings.

It is considered that the movage rate should be based both on the nature of the movage being performed and also on the size of the ship, i.e., on her maximum gross tonnage. As for the Commission's stand on the pilots' recommendation for the berthing and unberthing charge, reference is made to Recommendation No. 6.

### (3) DETENTION

The present By-law originally contained provisions for two types of detention:

- (a) detention on board at the request of the Master; this provision did not apply if the reason for the Master's request was for stress of weather or an accident for which the pilot was responsible;
- (b) waiting at anchorage off Father Point for favourable ice conditions; this provision was revoked in 1960 when the seaward station was moved to Les Escoumins where ice is generally not a problem.

The pilots complained, claiming they should be compensated for waiting periods due to inaccurate ETA's and that there should also be special remuneration for the unduly long duration of some winter trips due to the hazards of winter navigation. Their complaints bore fruit: in 1965, an amendment to the By-law added two new types of detention for navigation during part of the winter season, January 1 to March 15:

- (a) detention on board a vessel for any reason;
- (b) detention at a pilot station while waiting for a vessel behind her ETA.

The amount of the indemnity provided remained the same, i.e., \$3 per hour after the first hour with a maximum of \$25 for each calendar day. This indemnity is also affected by the general surcharge of 1965 as amended.

The Quebec pilots occasionally proceed to a ship at the request of the Master to perform a special type of service called *safety watch*. For tariff purposes this type of service has been treated as a detention charge. This is inconsistent with the nature of detention, i.e., a period of idle time for the pilot and not a period during which he performs a duty. Furthermore, the detention provisions of the tariff do not apply since in such cases the pilot should be remunerated from the moment he commences his watch. Therefore, this type of service should be specifically covered in the tariff by an appropriate rate for the service rendered which is higher than for mere detention for idle time. The rate should be based on tonnage and time.

The detention provisions during the normal navigation season are logical and consistent with the nature of detention. For further comments on this matter, reference is made to Part II, pp. 157 and ff.

Navigation during the winter season is a case of exception which should be treated as such. Shipowners are aware of the delays and risks inherent in that type of navigation and should be prepared to pay an indemnity for the time pilots lose waiting arrival after ordered time or if they are idle on board for any reason. However, if a pilot has to maintain a safety watch, this type of service should not be considered detention but a working period and should call for a charge as such. Despite its extended application and its increased rate due to the general surcharge, the detention item has brought little revenue: in 1955, \$6,923.50 representing 0.9 per cent of District earnings; in 1968, \$15,721.39, 0.9 per cent of District earnings.

#### (4) CANCELLATION

Cancellation is an indemnity for the trouble caused a pilot who has reported as requested only to find that the assignment is cancelled at the ship's request. It is realistic because it recognizes the service nature of pilotage and recognizes the right of the Master to cancel a pilotage contract unilaterally. Indirectly, it provides that no indemnity is called for if cancellation is effected before the pilot has reported for duty.

The Quebec provision is faulty, however, in not providing that there should not be any cancellation indemnity payable when the cause is unforeseen stress of weather as is provided for detention in the Quebec tariff and for cancellation in other Districts. The charge applicable in Quebec is combined with a detention charge and, hence, should be governed by the same rules. It calls for a charge of \$10 if it occurs within the first two hours, plus \$3 for each additional hour but not to exceed \$25 per calendar day. These rates are all subject to the general surcharge.

The revenue yielded from this source has always been small. In 1955, it amounted to \$144 representing 0.02 per cent of District earnings and in 1968, \$315.87, 0.01 per cent of District earnings.

#### (5) QUARANTINE, DETENTION AND OVERCARRIAGE

A pilot is entitled to a special detention indemnity when he is carried outside the District, generally on account of stress of weather, or when the ship is kept at the quarantine station for health reasons. This indemnity is not a subject of regulation and, therefore, does not appear in the tariff. Secs. 359 and 360 C.S.A. provide a statutory indemnity of \$15 per day in either case, plus, in the case of overcarriage, reasonable travelling expenses to enable the pilot to return to his base.

The Quebec pilots are the only ones on the St. Lawrence River to whom these provisions of the Act are likely to apply. They complain that the statutory indemnity is unrealistic and they have requested it be increased. On March 4, 1958, the Shipping Federation of Canada conveyed to the Pilots' Association their agreement to increasing the *per diem* allowance to \$25, and on April 2, 1958, the Director of Marine Services informed the pilots that the Pilotage Authority had no objection and that it was proposed to include the modification in the next revision of the By-law.

However, they soon found out that this was not possible because it was not within the regulation-making power of the Pilotage Authority to modify these statutory indemnities. The Superintendent of Pilotage in Ottawa, in a later memorandum to the District Supervisor, gave instructions that, notwithstanding the Shipping Federation's willingness to pay the bills for overcarriage of pilots at the suggested rate of \$25, the rate for billing purposes should remain \$15 until secs. 359 and 360 were amended (Ex. 694).

The Department intended to proceed with the amendment at the first opportunity but to date this has not yet been done. The Commission was informed that it is still the intention to proceed at the next opportunity. However, the Canada Shipping Act was amended in 1969 and this subject-matter was not among those covered.

For the fourteen-year period 1955-1968, the Pilotage Authority's financial statements show no receipt of indemnities paid either for overcarriage or quarantine detention. It was explained that such detentions are very rare and there is now even a smaller chance of overcarriage since the transfer of the pilot station to Les Escoumins. The indemnities are collected by the District Supervisor and paid directly to the pilots concerned. They are not considered pilotage dues or District revenues and, hence, are not reflected in the financial statements of the District.

The Pilots' Federation in their brief to the Commission recommended that the *per diem* indemnity be raised to \$50. This may be too high since it is



an indemnity and not a remuneration and is a normal hazard of the pilots' profession over which ships have no control but, on the other hand, is dependent upon the adequacy of disembarking facilities, which are the pilots' (or the Authority's) responsibility.

For the Commission's comments and recommendations on the matter, reference is made to Part I, pp. 201-203 and p. 490.

#### (6) COMPASS ADJUSTMENT AND DIRECTION-FINDER CALIBRATION

The Quebec tariff provides a \$20 charge for piloting a ship when undergoing compass adjustments or direction finder calibration. This is wrongly included in the tariff provision dealing with movages and, for this reason, the amount of revenue derived from this source is not known since it is not segregated from the aggregate revenue derived from that source.

It is considered that this item should be relocated in the tariff as a separate item and the revenue derived from it shown separately in the financial statement. Here again, as for trial trips, the rate should be variable based on maximum gross tonnage and time involved, with a given minimum.

#### (7) MISCELLANEOUS ITEMS

In special circumstances, vessels have been paying the pilots through the District Supervisor some *travelling expenses*. Since these are not actually pilotage money, they have been omitted from the comparative table on pp. 464-5. They amount to very little: from 1955 to 1968, this occurred only three times, i.e., \$54 in 1963, \$2 in 1964 and \$160.66 in 1968.

Similarly, the *apprentice pilots' bonuses* are collected (p. 237). Although these appear in the general cash receipts kept by the Pilotage Authority accountant (Ex. 657), they are not reflected in the annual report since they are not pilotage dues. As seen earlier, since the remuneration of the apprentices is unofficial, the Authority neither prepares invoices nor sends bills for their accounts. Normally, each apprentice is supposed to ask the shipping company for his allowance but in practice the apprentice asks a clerk in the pilotage office to send the invoice for him along with the pilotage invoice. This is done as a matter of convenience for which the apprentice pilot gives the clerk concerned a small *pourboire*, normally 25¢ for each cheque received.

#### (8) MEAL ALLOWANCE

As seen before (p. 50), when the Minister of Marine became the Pilotage Authority in 1905 and had the pilot station moved from Bic to Father Point, one of the items of compensation for the extra cost to the pilots was a meal allowance from public funds while they were at Father Point, Port Alfred or Chicoutimi.

This practice was frowned upon by the Robb Royal Commission Report of 1918 which recommended that pilotage rates be increased instead of granting a special allowance, and that the pilots be required to provide their own board. However, no action was taken on the recommendation until 1962. When expenditures were scrutinized during the austerity programme in 1962, the Department felt that this might be a good time to implement the recommendation of the 1918 Royal Commission. The Minister agreed and action was taken August 21, 1962, but there was no tariff adjustment. This meal allowance had been paid by the Department of Transport direct to the pilots concerned and, therefore, did not appear in the District financial report and was not included in the figures then quoted as the pilots' gross remuneration. It was an additional remuneration for them in that it compensated partly for the expenses they incurred while away from home at pilot stations. From 1955 to 1962, in round figures, this amounted to \$100 per year per pilot. The aggregate amount so paid in 1956 was \$6,063.00 and in 1961, \$6,725.47 (Ex. 589).

#### (9) DUES COLLECTED FROM SHIPS NOT EMPLOYING PILOTS

In Quebec, as in other Pilotage Districts, the compulsory payment obligation is not extended to all tariff items that comprise pilotage dues payable for trips and movages: pilot boat charges and radiotelephone rental charges which are pilotage dues, are not included. Since the statutory requirement is that a non-exempt ship shall pay exactly the same amount of dues as if she had taken a pilot, a ship should not pay a lesser amount except in the special cases provided in sec. 357 if a pilot is not taken (vide Part I, pp. 107-109, 226 and 227).

As seen before (pp. 208-209), very few non-exempt ships dispense with pilots. The aggregate amount of revenue derived from this source is minimal, always below 1 per cent of District earnings. For actual figures per year, vide table, pp. 464-5. According to the By-law, these receipts accrue to the Pension Fund.

#### (10) FINES

Almost every year some fines are imposed on the Quebec pilots which accrue to the Pension Fund. They amount to very little every year and, since they are not pilotage money, their aggregate amount is not shown in the comparative table on pp. 464-5. In the 14 years from 1955 to 1968, the maximum aggregate amount of fines was \$150 in 1964; it amounted to \$40 in 1968.

#### (11) UNOFFICIAL EARNINGS

Up to 1960, as seen earlier, unofficial earnings were paid to pilots in contravention of sec. 372 C.S.A., i.e., bonuses paid to special pilots and the remuneration of the assistant pilot (or second pilot) on winter assignments. The practice was condoned by the Pilotage Authority.

These irregularities have now been remedied by proper amendments to the By-law and by special provisions. At present, the pilots receive no unofficial remuneration.

### *Cost of Pilotage to the Government*

As seen earlier, the Government has assumed all the expenses of operating the District and the service since 1906, and, up to 1960, operated free of charge to both shipping and pilots the pilot vessel service at the seaward boarding station. In 1960, it imposed a \$20 charge for the use of the pilot vessel but the service still remained free of charge to the pilots since they were compensated by an equivalent increase in the trip pilotage rate. Since 1966, the Department has been providing the pilots with VHF radiotelephone when a ship does not carry this equipment. The rental fee to the pilot has been similarly compensated by an equivalent increase in pilotage trip dues. The operational deficits are absorbed by the Crown.

As for the period 1961-1962, reference is made to the study made by the Commission's accounting consultants which appears in Part I, pp. 624 and ff. This report, *inter alia*, establishes that the net cost to the Government after credit being given for the pilot boat charge collected decreased from \$367,182 in 1961 to \$196,700 in 1965, the savings being attributed to the move of the seaward pilot station to Les Escoumins which permitted the use of smaller pilot vessels less expensive to operate.

Reference is made to the table (p. 419) for the revenue derived from the pilot boat charges collected since 1960. Since the introduction of the radiotelephone rental charge in 1966, it has brought in the revenues shown hereunder. There are, however, no data available on the cost to the Government for providing the pilots with this service.

<u>Year</u>	<u>Amount</u>
1966 .....	\$13,590.00
1967 .....	20,310.00
1968 .....	16,095.00

## 7. PILOTS' REMUNERATION AND POOLING

Since 1860, officially at first and later unofficially, the Quebec pilots' basis of remuneration has been shares determined through a pooling system. In contrast to the present situation in other Districts, the pool has always been operated by the pilots themselves but its legal basis has changed. Between 1860 and 1915, it was a compulsory system defined by statute and pooling was the official mode of remuneration. From 1915 to date, the official



mode of remuneration has been the amount of dues actually earned by each pilot, less authorized deductions, but unofficially it has continued to be a share of the pooled pilotage earnings. The pilots continued to operate the pool from 1915 to 1920 through their Corporation, as if the 1915 Act had not deprived it of this power, and from 1920 to date, under a contractual agreement to which all the Quebec pilots have so far adhered.

Pooling was a new feature in pilotage when it was introduced by the 1860 Quebec Pilots Corporation Act, enacted at the pilots' own request to abolish the free enterprise system in favour of controlled despatching. It filled a service need and has since been adopted almost everywhere in the world. In most Pilotage Districts in Canada, including those where the Minister is the Pilotage Authority, pooling has been adopted by the Pilotage Authority as the method of remunerating its pilots, and is operated by the Pilotage Authority itself. In contrast, ever since the Pilotage Authority in the Quebec District took over the direction of the service from the Pilots' Corporation it has refused to continue the pooling system and officially has imposed on the pilots a method of remuneration based on work done. The 1915 Act was the result of the 1913 Lindsay Commission Report which condemned pooling as a pernicious practice. However, neither shipping nor the Pilotage Authority, nor for that matter the Federal Government, could prevent a pilot from disposing freely of his earnings because this is a civil matter. Hence, in 1920, the pilots instituted by contract a pooling system which, with modifications from time to time, is still in effect. For the historical background to the present situation, reference is made to pp. 53-66 and Part I, pp. 77-79 and 84 and ff.

Therefore, as far as the method of remunerating the Quebec pilots is concerned, the legal and factual situations are totally different.

According to subsec. 9(1) of the District By-law, the official basis of remuneration is work done:

"After deducting the amount required for the Quebec Pilots' Pension Fund the Superintendent shall pay to each pilot the remainder of the pilotage dues earned by him."

In other words, the Quebec pilots are supposed to receive and keep the dues payable by ships for services rendered, i.e., the full pecuniary consideration of the pilotage contract, less the only permissible deduction, the compulsory percentage payable to the Pension Fund. There can be no deduction towards the payment of District operating expenses (sec. 328 C.S.A.) (pp. 16-19).

The actual situation, however, is basically different. The actual method of remunerating the pilots is through a pooling system operated by the pilots themselves and with rules devised to meet the circumstances existing in 1920. The loss of control over despatching by the Pilots' Corporation and the special pilot system then made it impossible for the pilots to ensure an

equitable distribution of the workload and, hence, to maintain the pooling system they had had since 1860, which was based directly on availability for duty. They had to devise an incomplete and complicated *sui generis* pooling system under which, with some minor modifications, they still operate today.

Although the special pilot system was abolished in 1960, thus making it possible to institute a true *tour de rôle* system such as the pilots had had under their 1860 Corporation and which, no doubt, would have been adopted if they had so requested the Authority, the complicated 1920 system was retained.

The system of pooling is incomplete in that it applies only to those pilotage dues earned through pilotage trips; the other items of pilotage dues belong to the pilots who rendered the services, e.g., movages, compass adjustments, safety watch, detention and cancellation. When the grade system was introduced in 1960, the new trip charge component, the Class A vessel additional charge, was also not pooled but remained the property of the Class A pilot who rendered the service. However, the non-pooled money amounts in the aggregate to a very small percentage of the total pilotage dues accruing to pilots. Trip pilotage dues in 1955 comprised 95.9 per cent of the dues accruing directly or indirectly to the pilots; in 1968, 94.4 per cent, excluding the Class A charge.

Before the pool is shared among the pilots, the Pilots' Corporation, on behalf of the Association, draws on it to pay its operating costs and the pilots' group expenses—the first charge against it. Thus, expenses incurred in the common interest are prorated among the pilots in the same proportion that their own trip earnings bear to the total trip earnings of the group (pp. 282 and ff.). The remainder is shared among the pilots proportionately to the number of sharing turns they have to their credit (p. 116).

The system is complicated due to the fact that it is not based directly on availability for duty as in Districts where the pool is operated by the Pilotage Authority. However, the numerous rules the pilots have devised, and are still adding, tend more and more in that direction:

- (a) Although sharing is based on the number of sharing turns to the credit of each pilot (which are mainly accounted for by the number of trips performed) the *equalization of trips* procedure prevents any pilot from making a larger number of trips than the others with maximum availability. The object is to ensure that all pilots with maximum availability receive the same share of the pool. If the procedure were fully applied (as in the Montreal District), i.e., pilots not authorized to catch up turns lost through absence, all pilots with equal availability and the same grade would receive an equal share.

- (b) The *maximum average number of turns* feature ensures that all pilots of equal grade with maximum availability receive an identical share. The expression "maximum average number of turns" is misleading: in the context it means the minimum number of turns to the credit of a pilot with maximum availability (pp. 434-435).
- (c) *Free turns* are granted to compensate for despatching turns missed during an assignment of unusual duration, thus preventing lowering the "maximum average number of turns" due to abnormal circumstances.
- (d) The new rule of *compulsory periodical leave* ensures an equal aggregate period of non-availability for all pilots without the risk of falling behind in turns. This rule achieves the same purpose as the By-law provisions in other Districts granting specified periods of absence with pay.
- (e) *Averaging the monetary value* of trips prevents a pilot from receiving less or more remuneration than other pilots of the same grade with an equal number of trips. Otherwise, there would be some variation on account of the different amounts charged for similar trips. This procedure is a further guarantee of equal remuneration for all pilots with maximum availability.

Contrary to the system under the 1860 Act, pooling is now private and voluntary. So far, all the Quebec pilots have signed the pooling agreement which is called the Association. If a new pilot were to refuse to join the Association, his earnings (less the Pension Fund compulsory contribution) would have to be paid directly to him by the Pilotage Authority in accordance with the District By-law. In that event, he would not benefit from averaging the value of trips or from the illness and suspension indemnities provided by the clauses of the pooling agreement, but he would not have to share in the expenses of the pilots' organizations or their group expenses, although he would benefit from the work done by the organizations to improve the pilots' lot. On the other hand, he would be subjected to the same despatching rules, including the right to equalize his turns. He would be entitled to receive the exact total amount of the dues he earned as prescribed by the tariff, less the 10 per cent Pension Fund deduction. However, he would automatically be a member of the Pension Fund Corporation.

The rules the pilots have adopted to govern pooling are contained in By-law No. 2 of the Pilots' Corporation which, according to the Association's agreement as amended, are also those of the Association (as to legality, vide Part I, pp. 89-93). These rules are amended from time to time to meet new situations.

Sec. 4 of By-law No. 2 establishes the rights to *free turns*. It provides that half a turn will be credited both for despatching and pooling purposes



instead of a cash payment for each day or part of a day spent by a Director on Corporation business during the navigation season (which for this purpose is defined as the period between April 1 and December 31 inclusive). During the winter months, when most of the studies, proposals and representations are made, and when the Board of Directors meets most often, there is no remuneration or compensation of any kind, because at that time there is little demand for pilotage and Directors are not likely to lose any turns. If they do, an exception is made to permit them to equalize.

While this arrangement is of primary concern to the pilots themselves, as is their distribution of their common earnings, it also affects the Pilotage Authority in that it becomes an exception to the equalization of trips as defined in the despatching rules and included in the Pilotage Authority's By-law (p. 22).

The actual effect of this system on despatching is that the pilot concerned is not obliged (nor has he the right) to make up the turns he missed (except after December 31 and before April 1 as seen above) while on Corporation or Association duties.

The granting of free turns for the double purpose of despatching and pooling has the advantage of providing equal remuneration for active pilots by preventing the Directors from making up the turns they missed while attending Directors' meetings. Otherwise, the Directors would have a greater share of the earnings at the end of the year. The application of the equalization rule would have an adverse effect on the efficiency of the service and would create hardship for the pilots concerned, a tired pilot being a safety risk. The remaining alternative would be to neglect Corporation activities.

These turns are granted by the Corporation before the service has been rendered and the Supervisor is informed by letter. The pilots concerned are credited immediately so that their names are not placed at the top of the despatching list (which would prevent their attendance). At the meeting, the Secretary gives the details of the turns that were credited and these are approved by the Board.

Details of the turns granted for this purpose are available either from the Superintendent or from the Corporation office. They also appear in the minutes of the meetings of the Board of Directors of both the Corporation and the Association and are available to all members. Furthermore, according to the By-laws of the Corporation, Board meetings are not held in private; every member has the right to attend any Board meeting, although he can not participate in the discussion.

The administrative free turns granted since 1960 when provision was made for them in the Corporation By-laws and their aggregate monetary value are as follows (Ex. 654):

## ADMINISTRATIVE FREE TURNS

Year	Number of turns granted		Number of pilots who received free turns		Aggregate value of administrative turns granted*	Amount reimbursed by the Federation	Amount borne by the Corporation
	Federation	Corporation	Federation	Corporation			
	No.	No.	No.	No.	\$	\$	\$
Prior to 1960.....	nil	nil	nil	nil	—	—	—
1960.....	0	80½	0	15	9,870.11	—	9,870.11
1961.....	2	53½	1	9	7,020.75	260.00	6,760.75
1962.....	19½	65½	1	14	10,603.75	2,405.00	8,198.75
1963.....	83	106	1	9	23,497.38	10,757.88	12,739.50
1964.....	60½	88	1	10	19,395.59	8,080.39	11,315.20
1965.....	3	61½	2	9	9,066.88	479.60	8,587.28
1966.....	1½	73½	1	15	11,073.75	235.00	10,838.75
1967.....	2	73	1	13	11,429.25	310.00	11,119.25
1968.....	0	102	0	11	15,421.38	—	15,421.38

\* For monetary value of sharing turns, vide Table p. 487.

SOURCES: Ex. 654 and Tables pp. 116 and 487.

Over the nine years 1960-1968, free turns totalled 875 out of the grand total number of 78,688 sharing turns, i.e., 1.1 per cent. The Corporation invoices the Federation for the monetary value of the turns granted to the President and Vice-president of the Federation when they are Quebec pilots. The Federation pays the Corporation the amount claimed. By this procedure the remuneration of the Federation President is prorated among all the members of the Federation (pp. 304-305). For instance, this is the item of revenue \$2,405 which appears in the 1962 Financial Statement of the Corporation (Ex. 597).

Free turns are also granted to replace turns missed during an assignment of unusual duration for reasons beyond the pilot's control and considered normal hazards of the pilot's profession, such as a shipping casualty, quarantine, a strike or an act of God. The right to, and the number of, such free turns are determined by the Board of Directors on the merits of each case. These are not included in the foregoing statistics. This rule corrects one of the injustices created by pooling based on the number of assignments rather than on availability for duty.

As in all Districts where a pooling system exists, use is made of it to grant pilots financial assistance for loss of revenue due to illness or injury, which was one of the purposes of Pilot Funds before they were transformed, despite the law, into Pension Funds (Part I, C.10). In a pooling system based on availability for duty this is done by providing for sick leave with full pay and half pay. Such provisions would be ineffective and meaningless in the special pooling system of the Quebec pilots. They have devised their own rules which provide for the granting of half a turn (*indemnity turn*) for each turn missed through illness or injury. If a pilot elects to accept this benefit, he loses the right to equalize missed turns.

The Quebec pilots also provide out of their pool indemnities for pecuniary losses incurred by a pilot for turns lost during the suspension or cancellation of his licence. In the latter case the benefit does not extend beyond the date he becomes entitled to his pension. It does not apply when the suspension or cancellation was imposed as a result of consumption of alcoholic beverages or narcotics (p. 384). Indemnity turns are also granted on the same basis as above, i.e., one-half indemnity turn for one lost turn.

Pooling is operated on the basis of a year ending December 15. Formerly, the financial year coincided with the calendar year, but this did not allow sufficient time for the Secretary-Treasurer to prepare his financial statements and for the accountants to complete their audit before the annual meeting of the Corporation. On the other hand, it was not advantageous to delay the Corporation's meeting because the Federation and the Guild also held their meetings after the Corporation's during the winter months. There were also decisions taken at the annual meeting that had to be implemented during the winter months when the pilots had time to devote to Corporation business.



Therefore, the by-laws were amended accordingly and since that time both expenses and earnings are calculated as of December 15. On December 16, turns start at zero for everyone. Trips in progress at midnight December 15 are credited to the next year.

The amount of the annual shares is determined on the basis of dues as earned. The pilots have adopted the method of self-financing by making advance payments during the year on the basis of money on hand, and the unpaid portion of the yearly share at the end of the year is paid during the next fiscal year as funds become available. For other methods of financing payment of shares, vide Part II, p. 185.

Each fortnight the total earnings collected are received from the Pilotage Authority by cheque made to the order of the Association which is deposited to the account of the Corporation. The bank has accepted this system at the written request of the Association. As to the legality of the new Corporation, to which all pilots do not belong, superseding the Association with regard to pooling and the handling of pilots' money, reference is made to Part I, pp. 90 and 91.

The common fund is shared on an annual basis but advance distributions are made every fortnight between May 1 and December 31. There is normally no advance distribution during the period January 1—April 30. Distributions during that period represent payments of the outstanding balance of the pilots' share for the previous pooling year.

No large amount of money is ever kept in the bank account after distribution and the Corporation makes no investments and keeps no reserve except to meet anticipated expenses, e.g., \$12,000 in December for the winter months. The undivided amount left as a reserve at the end of 1968 was \$14,067.12.

#### *Advance Distribution*

The value of the turn for the fortnightly distribution is calculated by deducting from the funds on hand (a) expenses incurred during the period in question; (b) earnings not included in the pool (movages, detention, Class A bonuses, cancellations, etc.); and (c) a reserve to meet current expenses, and then dividing the remainder by the number of turns credited during that fortnight. Since it is only an advance distribution, the value of the turn is established in round figures.

To ascertain the number of turns completed by each pilot during the fortnight, the Secretary uses the assignment list of the 15th and 30th of each month and extracts the number of turns credited to each pilot during the previous fortnight. He must then take into account turns credited for sharing purposes and the lesser value of turns credited to Grade C1 and C2 pilots.

The maximum average rule applies to the fortnightly distribution. The shares are calculated by granting those who have the "average number of turns" an equal share; those who are below this average are granted the

average less the value of sharing turns greater than two they are in arrears. Turns in excess of the average number do not count at that time. The "average number of turns" means the number of trips done by those pilots who were always available for duty and, in view of the equalization of turns system, is the maximum any pilot with no absences could reach. A tolerance of two turns is allowed because when the distribution is made all the pilots on the list have not had the same opportunity, e.g., some were next on the list to be despatched. Under the equalization of turns rule, a pilot can make up the turns he is behind but can not get ahead of his colleagues.

Directors may authorize interim distributions. In recent years, due to increasing winter pilotage, earlier distributions are made. In 1968, for instance, winter distributions were effected March 5 and April 5, and the fortnightly distributions extended from May 3 to December 20.

Payment is made by cheque to each pilot accompanied by a statement (Ex. 684) showing his share of the common fund and detailing the non-pooled earnings and the illness or suspension assistance granted to him (the value of the indemnity turns credited to him). In addition, personal deductions such as hospital insurance premiums are listed. For the pilots' information, the pilotage bills in arrears are listed, i.e., the amount then receivable.

Also accompanying the distribution cheque is a detailed financial statement which shows how the net amount was arrived at and how the value of the turn was calculated (Ex. 597). It includes expenditures during those two weeks and the details of those pilots who did not receive an equal amount, those over or below average and those who received nothing.

#### *Final Distribution*

At the end of the year, the pilots are furnished with an Annual Financial Statement which sets out the whole situation at the end of the pooling year, i.e., December 15, including the Corporation's expenses, the calculated net common fund, the amount of the share of each pilot in it, the advances he has received and finally the amount still owing to him. This outstanding balance is paid during the winter months, as decided by the Board of Directors when funds become available. For instance, at the end of 1962 each pilot was still owed \$750 which could not be paid because funds were lacking. Distribution was made when funds became available whether other accounts were still outstanding or not. The final distribution for 1962 was paid in two instalments: \$500 on January 5 and \$250 on January 20.

Because of the application of the maximum average rule, Grade A and Grade B pilots with maximum availability receive the same share, whether or not their actual number of turns differs slightly when the assignment list was closed. The same rule applies among the Grade C1 and C2 pilots, except for the lesser value of the turn.

For distribution purposes the value of the turn is then obtained by dividing the net amount of the common fund (less a reserve for expected

expenses) by the aggregate number of sharing turns. Consideration here is given to the fact that for sharing purposes the turns for Grade C1 and Grade C2 pilots are worth only 75 per cent and 85 per cent of the others.

In 1962, for instance, (Ex. 597) the value of the turn was established as \$124.75:

- (a) The maximum number referred to in By-Law No. 2 as the "average number of turns" was 108 (although the mathematical average appears to have been 103.8). All the pilots who did 108 turns or more (some did 109½) received an equal share of \$13,473 (except Grade C pilots).
- (b) The value of the missing turns was deducted from the share of the pilots with a smaller number, e.g., pilot J. Rémi Lamarre with 107 received \$13,348.25, pilot Yves Pouliot with 107½ received \$13,410.63.
- (c) Grade C pilots received less for their turns, e.g., pilot Gilles Chouinard, pilot Ernest Drolet and pilot Laurent Dubé who were licensed in 1962 and did 107½, 106½, and 107 turns respectively received \$10,011.19. They must have done the maximum possible number of turns after their appointment.
- (d) Pilot André Bernier, with 98½ turns, was granted \$249.50 in illness benefits, i.e., two sharing turns as indemnity for 4 turns missed due to illness.

For the years 1955-1968, the value of the sharing turn and the maximum average which gave the Grade A and Grade B pilots a full share were as follows:

Year	Value of the Sharing Turn	Maximum Average		Maximum Share
		Sharing Turns		for Grade A & Grade B pilots with maximum average
		Min.	Max.	
1955.....	116.83	89	93	\$ 10,398.00
1956.....	118.19	88½	100	10,401.00
1957.....	124.31	86	94	10,691.00
1958.....	127.97	87	112	11,133.00
1959.....	128.43	101	113	12,971.00
1960.....	122.61	105½	108	12,935.00
1961.....	126.50	104	106	13,156.00
1962.....	124.75	108	109½	13,473.00
1963.....	126.33	109	111	13,770.00
1964.....	130.61	115½	117	15,085.00
1965.....	145.07	110½	112	16,030.00
1966.....	147.65	119	122	17,570.00
1967.....	152.39	113	115½	17,220.00
1968.....	151.19	109½	112	16,555.00

SOURCE: Ex. 597.



The large discrepancy between the minimum and the maximum for the maximum average prior to 1960 came from a situation which escapes the equalization rules and the power of the despatching authorities, i.e., the special pilot system. Special pilots were not authorized to receive a greater share than tour de rôle pilots and turns in excess of the maximum average were disregarded for pooling purposes (vide pp. 252 and ff.). However, special pilots drew directly from their employers the bonus granted for all the trips performed.

It is worth noting the steadily rising value of the sharing turn, despite increased administrative costs and the free turns granted since the formation of the Corporation. This is due to a combination of higher rates and larger ships.

The minimum number of sharing turns for the maximum average has remained fairly constant since 1960. The governing factors are the length of the trip, the duration of the transit, the number of pilots on strength, the extent of the pilotage demand, which in recent years has been regularly jeopardized by a series of strikes in the shipping industries and the services related to shipping. The move of the seaward station to Les Escoumins was the most important single factor which enabled the pilots to do a greater number of trips annually. Faster ships, better equipped to navigate under adverse weather conditions, have also contributed to increase the maximum average.

In addition to his share from the common pool, each pilot receives the non-pooled items of revenue that he earned personally. For the years 1955 to 1968 inclusive, these amounted to the totals below. Almost all pilots received earnings from movages and detention but the Grade A bonus accrues only to the Grade A pilots who earned them.

Year	Number of Pilots Listed	Grade A Bonus			
		Amount	Number of Grade A Pilots Sharing	Movages	Detention
1955.....	66	\$ —	—	\$ 15,738.00	\$ 6,561.59
1956.....	74	—	—	15,572.00	6,946.67
1957.....	72	—	—	20,324.00	7,595.55
1958.....	70	—	—	18,806.00	6,973.14
1959.....	77	—	—	18,758.00	6,756.45
1960.....	79	9,997.50	10	19,182.13	6,188.22
1961.....	77	11,925.00	10	18,857.40	5,974.15
1962.....	78	14,467.50	10	15,917.75	3,878.10
1963.....	78	15,750.00	11	17,505.00	7,558.20
1964.....	83	19,238.00	10	17,662.50	9,540.90
1965.....	87	26,341.20	13	32,824.13	10,628.29
1966.....	89	31,689.76	23	34,063.89	12,448.30
1967.....	90	41,931.09	32	35,319.40	14,635.36
1968.....	89	43,865.78	34	27,697.86	14,929.65

SOURCE: EX. 597.

This method produces appreciable differences between the remuneration of various pilots each year. Low income results because the pilot concerned was not on strength for the whole year or was absent. The table p. 490 shows for each year 1955-1968 the number of pilots whose remuneration fell in the various thousand-dollar brackets. Each underline indicates the thousand-dollar bracket in which the average net remuneration per year pilot falls (vide p. 492).

The figures quoted in the table p. 492 and in the previous pages for the years 1955 to 1962 do not indicate the full pilotage remuneration obtained by pilots. It is estimated that the extra unofficial revenue derived from the remuneration of the second pilot in winter, the bonus paid by companies to their special pilots and the meal allowances paid to all pilots by D.O.T. would amount to a minimum, if averaged among all the pilots then on strength, of \$1,500 extra remuneration annually. Since the special pilot bonuses did not accrue to the tour de rôle pilots and were not distributed evenly among the special pilots, a number of pilots obtained a substantial amount in unofficial income over and above the one they are shown as having received officially. The meal allowance which averaged about \$100 per year per pilot ceased in July 1962.

Before comparing these figures with those of other Districts, it must be borne in mind that in the Quebec District, in contrast with the situation in the British Columbia District, for instance, the pilots pay their own travelling expenses between pilot stations, or wharves, or landing places throughout the District, as well as the cost of lodging and meals while awaiting a ship away from home. It has been estimated that these amount, on the average, to \$1,500 per pilot per year.

In 1960, the pilots kept records in order to justify a deduction by the Department of National Revenue for income tax purposes. Pilot Rousseau stated that he himself kept a complete account and that year his expenses amounted to about \$1,500. He felt this would be the amount that should be allowed as a deduction for income tax purposes under the heading of expenses necessary to earn his living. When the question of tariff and pilots' earnings is discussed by the pilots, the shipping interests and the Pilotage Authority, the point of contention is that the pilots' estimate of their expenses is too high. A bulletin sent by the Pilots' Corporation to all its members June 7, 1962 (Ex. 688) gives the impression that the Pilots' Corporation was preparing to furnish this Commission with complete, detailed evidence on this subject. The pilots were informed that fifteen of their number had been chosen at random to keep actual statistics of workload and expenses. As for expenses, these fifteen pilots were requested to keep a detailed breakdown, including transportation costs by taxi or other means, hotel charges, meals, telephones, tips to boatmen, stewards and taxi drivers, and any other expenses such as laundry, cleaning, etc. For unknown reasons, these figures were not

“Take Home” Net Income Bracket*	Number of Sharing Pilots													
	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
\$20-21,000.....												6	2	
19-20,000.....											2	11	19	1
18-19,000.....											10	32	23	29
17-18,000.....										9	4	23	<u>31</u>	20
16-17,000.....									3		<u>50</u>	2	3	<u>26</u>
15-16,000.....								8	7	<u>56</u>	4	5		1
14-15,000.....					5	9	10	4	31	3	2	1	2	5
13-14,000.....					<u>56</u>	50	<u>52</u>	<u>47</u>	<u>26</u>	1	5			
12-13,000.....			3	12	2	<u>7</u>	4	<u>8</u>	<u>3</u>	5	4			
11-12,000.....	15	14	<u>37</u>	<u>51</u>	3	2	3	3	3	1	4	1	5	3
10-11,000.....	<u>44</u>	<u>46</u>	<u>22</u>	2	2		4	4				1		1
9-10,000.....	1	3	4	1	1	1	2					1		
8-9,000.....	2				1			1		2	1			1
7-8,000.....	1	1		1	1	2	1			2				
6-7,000.....		1	1		3			1			1	4		1
5-6,000.....		2		1	1	4	1		1	1			2	
4-5,000.....		5	2		1	2							1	
3-4,000.....									2				1	1
2-3,000.....	1		2			1			1	3		1		
1-2,000.....	2	1	1	2		1						1		
0-1,000.....		1			1			1					1	
0.....														
Total Number of Sharing Pilots.....	66	74	72	70	77	79	77	78	78	83	87	89	90	89

\* Before taxes and personal deductions, but after Pension Fund compulsory contribution and group expenses including share of Corporation expenses, CMSG fees and Pilots' Federation dues.  
SOURCE: Ex. 597.



placed in evidence before this Commission and the amount of allowable expense remains as contentious as before. Since expenses are directly connected with earning pilotage income, they are deductible for income tax purposes. Prior to 1962, the situation was different in that the pilots drew from the Department of Transport a meal allowance at Father Point and Chicoutimi, as above stated, and that their Association paid their fares between Quebec and Father Point or between Quebec and Chicoutimi. In this way, their travelling expenses became the Association's expenses and were prorated. In addition, the pilots who were on top of the list could find accommodation free of charge on board the pilot vessel. This is no longer the case; under the Corporation's new policy each pilot pays whatever expenses he incurs in the performance of his duties. These vary from pilot to pilot according to chance and the nature of their assignments.

The Pilotage Authority's refusal to operate pooling causes duplication of work and obliges the pilots to incur administrative expenses they would not otherwise have to pay and, hence, reduces their net pilotage income. Corporation and group expenses in other Districts are normally small by comparison, e.g., as seen from the situation in the British Columbia District, and proportionately in the smaller Districts such as New Westminster, Saint John, N.B., and Halifax. To show the incidence of the Association's or Corporation's expenses (including Guild and Federation fees) on the pilot's remuneration, and also to provide average figures which would be comparable with the remuneration statistics produced for other Districts, the following table was devised showing average remuneration figures calculated on the "year pilot basis", without consideration being given to pilots' grades. The earnings shown comprise all pilotage earnings, i.e., pooled and non-pooled earnings.

At the time of the hearings in 1963, pilot Rousseau referred to the 1962 net remuneration of the pilots and expressed the opinion that he was not prepared to acknowledge that remuneration was adequate for their workload. He stated that the pilots had great responsibilities and he believed that they were doing a "very good job" but whether the amount was enough he was not prepared to say, except that he personally felt that it was not enough. He conceded that the deductions, i.e., pension contributions and Corporation expenses, might be a little high, adding that the latter was not the pilots' fault, but was due to the problems they had to face since 1959, and the former was because they had to increase the pension contribution to 10 per cent to put the fund on a sound actuarial basis. He pointed out, however, that what goes into the Pension Fund is really part of their pay.

The remaining fringe benefits can not be considered additional revenue because they are paid for by the pilots themselves either out of the common fund, e.g., illness and suspension benefits, or from their individual share, e.g., accident insurance and the group hospital plan (circular letter February 3, 1961 (Ex. 688) and President's address 1962 (Ex. 683)).

Year	Average Remuneration per Year Pilot						Share of Administrative Cost per Year Pilot in Per Cent
	Share of Total Revenues Accruing to Pilots		Share less Contribution to Pension Fund		Share less Pension Fund Contribution and Association Administrative Costs*		
	Amount \$	% Increase or decrease since 1955	Amount \$	% Increase or decrease since 1955	Amount \$	% Increase or decrease since 1955	
1955.....	11,531.13	0.0	10,663.39	0.0	10,550.40	0.0	1.5
1956.....	11,461.79	-0.6	10,576.72	-0.8	10,432.82	-1.1	1.4
1957.....	12,099.98	4.9	11,193.78	5.0	11,043.63	4.7	1.5
1958.....	12,483.37	8.3	11,564.25	8.4	11,398.05	8.0	1.5
1959.....	14,523.59	26.0	13,408.94	25.7	13,238.57	25.5	1.4
1960.....	14,544.24	26.1	13,452.86	26.2	12,953.79	22.8	1.3
1961.....	15,115.87	31.1	13,543.91	27.0	13,206.48	25.2	1.3
1962.....	15,292.30	32.6	13,705.86	28.5	13,346.43	26.5	1.3
1963.....	15,897.49	37.9	14,241.05	33.6	13,832.20	31.1	1.3
1964.....	17,481.10	51.6	15,681.69	47.1	15,283.53	44.9	1.3
1965.....	18,975.40	64.6	16,929.07	58.8	16,478.78	56.2	1.2
1966.....	20,780.19	80.2	18,634.05	74.7	18,157.81	72.1	1.2
1967.....	21,231.86	84.1	18,981.82	78.0	18,479.89	75.2	1.2
1968.....	20,578.10	78.5	18,450.57	73.0	17,941.82	70.1	1.1

\* Including value of free turns (vide Tables pp. 284 and 483).

SOURCE: Table pp. 464-5.

Pilot André Bédard also expressed his personal opinion that he did not believe the pilots' earnings were sufficient but he would not say how much they should be. He admitted that throughout their negotiations the pilots had taken the attitude of never stating exactly what they intended to earn in a given year. He also admitted that during these negotiations there were demands by various Corporations for an increase in the number of pilots in particular Districts and that at the next negotiation there would be arguments to increase the revenue on account of these new pilots, but he added that this was not a general rule and in his opinion this was not the case in Quebec. He did not agree there was a planned effort to follow that line.

#### COMMENTS

The criteria and method of establishing the remuneration of pilots who have the status of quasi-employees where service must be maintained in the public interest are described in Part I of the Report, pp. 143 and ff., to the effect that, combined with fringe benefits, other advantages accompanying the pilots' profession and working conditions should be sufficient to attract the best qualified candidates and retain them once they are licensed. As pointed out (Part I, p. 146), unfair advantage should not be taken of the inferior bargaining position of pilots in those Districts where they can find no reasonable alternative employment on account of the apprenticeship requirement.

As the Commission has recommended (Gen. Recs. 26 to 38, Part I, pp. 556 and ff.), in the interest of safety of navigation and the efficiency of the service, Pilotage Authorities should demand of pilots maximum qualifications and constant fitness. Pilots are expected to be, and remain, fully qualified mariners, expert navigators in the waters of their District and capable of handling all vessels within the scope of their licence. It follows that they should be treated as professional experts and remunerated accordingly.

The pilots' remuneration must be considered in relation to the national economy. It is true that because their profession is directly connected with the activity of a single sector of the economy their remuneration during post-war years has not always kept pace with the general trend.

The method of establishing the level of remuneration of those pilots whose status is that of employees of their Pilotage Authority is substantially the same (vide Part III, pp. 210 and ff.).

### 8. FINANCIAL ADMINISTRATION

#### PREAMBLE

The characteristics of financial administration in the Pilotage District of Quebec are:

- (a) Under the present statutory legislation the District is not, and can not become, an independent, self-supporting entity because its



Pilotage Authority is precluded by sec. 328 C.S.A. from paying District operating expenses out of licence fees and pilotage dues (pp. 16-17, and Part I, C.5).

- (b) Expenses incurred by the Pilotage Authority operating the District and the pilotage service are assumed by the public through the Department of Transport, but there is no legislation to authorize such expenditures of public funds except through the annual estimates of the Department (p. 16).
- (c) The Authority handles billing and the collection of pilotage dues and all other money that comes into its hands but only as a trustee. It has no funds or assets of its own.
- (d) Pilot vessel service at the seaward station of Les Escoumins is provided by the Department of Transport without cost to the pilots by the device of increasing pilotage dues to cover the cost of the service. The same procedure was adopted to cover the rental to pilots of the VHF portable radio sets they must carry if ships are not so equipped. These two charges are collected by the Pilotage Authority. In Quebec harbour, pilot vessel service is provided free of charge to the pilots by the ships they pilot pursuant to a general agreement reached by the Shipping Federation of Canada on behalf of shipowners with the pilot launch owners in Quebec. The Pilotage Authority does not collect these pilot vessel charges; this is done directly by the launch owner.
- (e) Dues belong to the pilot who earned them, less the following deductions:
  - (i) The compulsory 10 per cent contribution to the Pension Fund as fixed by the 1860 Pilots' Corporation, the trustee of the Fund, which is deducted by the Pilotage Authority from the dues collected and paid over to the Pension Fund Corporation;
  - (ii) two items of the pilots' own operating expenses: the Les Escoumins pilot vessel service charges and radiotelephone rental charges which in its By-law the Pilotage Authority has purported to give itself authority to deduct from the dues collected and remit to the Receiver General of Canada on behalf of the pilot concerned (Part 1, p. 107).
- (f) The Pilotage Authority does not pool the pilots' net earnings which, according to its By-law, it must pay to the pilots who earned them. This is purportedly being done by paying the aggregate pilots' net earnings to the Pilots' Association on the ground that each pilot has authorized the Association to receive payment of his

earnings on his behalf, although a direct payment would be made to a pilot who so requested. In fact, the pilots' earnings are pooled by the pilots themselves under *ad hoc* private arrangements.

### (1) COLLECTION OF DUES

As in all other Districts in Canada, the computation of pilotage dues is based on information contained in the source form filled out by the pilot for each assignment showing the particulars of the vessel, the voyage and other services rendered. For this purpose, the pilots complete the source forms correctly and, as seen previously, the difficulties that are encountered concern the additional information which is used for statistics, mainly to establish the workload.

In cases of double despatching, each pilot is required to fill out his own source form (Bulletin, November 30, 1961, Ex. 688).

When the ship's tonnage is not shown according to British standards, a readjusted figure is used to compute the dues (Part 1, p. 168). Occasionally, the source form is not filled in completely, e.g., tonnage may have been omitted, or a pilot may merely put a note requesting the clerk to refer to the source form of the Montreal pilot whom he relieved at Quebec for the draught of a downbound vessel.

The bills are made up by the Pilotage Authority's accountant at the Quebec office and sent to the shipping agents concerned with a copy to the Pilots' Association. Since they are numbered, the Association can check any omission.

The Commission was informed that no difficulty was experienced collecting pilotage dues. It is the practice of some companies to pay for both upbound and downbound trips at the same time and, therefore, if a ship goes to the Head of the Lakes it may take a month and a half or two months before such bills are paid. However, the average time for collection is 30 to 40 days. A report on outstanding bills is rendered December 31 each year. For instance, for the years 1960-1964 these reports (Ex. 585) show that on December 31 the following amounts were outstanding:

1960 .....	\$36,564.47	1963 .....	\$72,519.45
1961 .....	38,278.50	1964 .....	68,937.59
1962 .....	40,910.16		

These bills, however, are not necessarily overdue and the purpose of this annual report is to indicate what charges are to be counted as earnings up to the end of the year. All pilotage dues earned up to and including December 31 are listed, e.g., a ship passing Les Escoumins on or before December 31 is entered into that year's account and the bill is high because there are two pilots aboard. This explains why such large sums remain unpaid at the end of each year.

## *Study of Quebec Pilotage District*

The Pilots' Corporation's financial reports (Ex. 597) shows that, for the period 1959-1968, only \$683.99 were written off in 1968 as bad debts leaving for that period a relatively small amount of \$2,530.50 that had been outstanding for over one year. The debts written off were the uncollectable balance of debts owed by shipping companies that went bankrupt. The details on a year basis, as shown in the Corporation's financial reports from 1964 to 1968, are:

Accounts Outstanding Balance	1964	1965	1966	1967	1968
1959.....	\$ 1,531.80	\$ 1,531.80	\$ 1,531.80	\$ 1,531.80	\$ 1,099.09*†
1960.....	550.85	550.85	251.28*	251.28	†
1963.....	348.33	298.84*	298.84	298.84	298.84
1964.....		1,102.46	882.48*	511.92*	178.79*
1965.....			604.67	118.36*	118.36
1966.....				307.55	*
1967.....					835.42
Balance of accounts out- standing for over one year.....	\$ 2,430.98	\$ 3,483.95	\$ 3,569.07	\$ 3,019.75	\$ 2,530.50
*Collected.....	\$ —	\$49.49	\$ 519.51	\$ 856.27	\$ 640.68
†Written off.....	—	—	—	—	683.99

The pilots have frequently complained about delays in the collection of dues. In order to facilitate collection in difficult cases, the Pilots' Corporation periodically furnishes all pilots with a list of ships with outstanding bills, asking them to report immediately when any of them arrives in the District. The lists are corrected from time to time whenever payment is received (Pilots' Corporation Bulletin, June 2, 1961-Ex. 688).

If it is considered necessary to have a ship arrested for non-payment of pilotage dues, this procedure is initiated from Ottawa by the Pilotage Authority which gives the necessary instructions to the Customs Officer.

## (2) ACCOUNTING

According to the By-law (sec. 9) there is no Pilotage Fund in Quebec, and there is no need for any under the prevailing arrangements. The Pilotage Authority has no fund of its own and its only function as far as money is concerned is to serve as a collecting agent. Hence, according to the By-law, the Superintendent in charge, i.e., the Supervisor at Quebec, is supposed to dispose immediately of all money received in the prescribed manner. Under



these circumstances, the bank account which the Supervisor must have to cash cheques received and pay remittances can not properly be called a Pilotage Fund.

The arrangement is consistent with the method of remuneration which is officially supposed to apply to the Quebec pilots, i.e., each pilot separately and individually is supposed to be paid the net amount of the dues his services have earned. Despite the By-law, immediate distribution is not practicable and is not attempted. The Supervisor holds the money he receives and makes payments twice a month, each time reducing the account to nil. However, contrary to subsec. 9(1) of the By-law, he does not pay each pilot his net pilotage earnings, but issues a single cheque to the Pilots' Association. Up to 1959, he made the gesture of determining the amount to which each pilot would have been entitled if he had paid them according to the By-law, but in the factual context it was a futile procedure which has since been discontinued.

The District Accountant, Mr. Armand Lessard, stated that he believed subsec. 9(1) was being followed because each pilot is considered to have given a power of attorney authorizing the Association to collect his pilotage dues for him, but he has never seen these powers of attorney. In fact, neither the Association nor the Corporation holds such powers of attorney and their authority to receive the pilots' earnings emanates from clause 10 of the Deed of Association (Ex. 592) and purportedly sec. 2 of By-law No. 2 of the Pilots' Corporation. The purpose of the Deed of Association, which all the Quebec pilots signed, was to pool their earnings in a common fund to be administered by themselves as a group.

During recent years, the Pilotage Authority has received no written request from any pilot to have his earnings paid direct. Once in the early spring of 1936, a pilot received a cheque directly from the Pilotage Authority but a few weeks later the pilot concerned reimbursed the Corporation. During the 1962 strike some of the pilots requested verbally that their earnings be paid direct, but they did not pursue the matter further when the Supervisor asked them to put their request in writing.

The Pilotage Authority does not account formally either to the pilots or to their Association or Corporation. The Pilots' Corporation, however, is constantly informed about the Pilotage Authority's financial administration because it is furnished by the Pilotage Authority with the following documents:

- (a) a copy of all source forms, transmitted daily;
- (b) a copy of the daily despatching list showing the number of turns credited to each pilot as of that date;
- (c) a copy of the cash receipt journal (Ex. 657) about twice a week, i.e., a list of all receipts with full particulars.

At the time of each fortnightly remittance the District Supervisor, through his accountant, disposes of all other money on hand: the pilot boat and radiotelephone charges are remitted to the Receiver General, and the 10 per cent contribution to the Pension Fund deducted from the pilots' net earnings is paid to the Pension Fund Trustee.

The Pilotage Authority's books are audited annually by the auditors of the Department of Transport but they do not submit an audited statement nor is there any true financial statement prepared and furnished by the Pilotage Authority. However, every year the auditors of the Pilots' Association ask the Pilotage Authority's accountant for the totals of the various items and also for the grand total for the year. This should agree with the records which the Pilots' Association compiles from the various documents forwarded by the Authority.

At the Commission's request, the accounting system and the books of the Quebec supervisor were examined by the Commission's chartered accountant consultants, McDonald, Currie & Co. The general findings in their report dated April 7, 1965, were that the accounting procedure followed by the District was satisfactory and the accounting records adequately reflected the operations carried out by the District (Ex. 1538(u)).

The financial operations of the District are integrated with those of the Department of Transport. What purports to be an annual financial statement of the Pilotage Authority is nothing more than various details relating to pilotage money which have been embodied in the Authority's annual report. It is mainly for statistical purposes and is not an accounting document. It shows on an earned basis the aggregate amount yielded by each tariff item, the dues earned as a result of compulsory payment and one item of non-pilotage money which belongs to the Pension Fund, i.e., fines imposed on pilots. It does not show other items of revenue which are not paid to the pilots directly or indirectly, such as licence fees, examination fees, or money collected on behalf of third parties, such as pilotage dues belonging to another District. It does not state what portion of these amounts has been collected and how much remains outstanding.

On the debit side, it shows merely how these earnings are to be divided but not the actual distribution. Although the Authority uses the words "total remittance to Pilots' Association" and "remittance in connection with the Pension Fund", they do not represent the actual situation, i.e., a remittance was paid, or will be paid if and when a collection is completed.

The following table shows for the period 1955-1968 the total amount of dues earned that were payable directly or indirectly to the pilots. It does not include pilot boat charges or the radiotelephone rental charges which accrue to the Receiver General of Canada when collected, or the negligible aggregate amount of fines imposed on pilots which accrue to the Pension Fund.

Year	Pilotage Earnings	Increase % Over 1955	Year	Pilotage Earnings	Increase % Over 1955
1955.....	\$ 744,924.50	0.0	1962.....	\$ 1,183,135.37	58.8
1956.....	804,670.45	8.0	1963.....	1,220,168.48	63.8
1957.....	828,587.15	11.2	1964.....	1,375,742.38	84.7
1958.....	854,012.46	14.6	1965.....	1,629,715.78	118.8
1959.....	1,062,382.30	42.6	1966.....	1,776,705.02	138.5
1960.....	1,096,570.91	47.2	1967.....	1,827,962.95	145.4
1961.....	1,171,895.04	57.3	1968.....	1,767,128.04	137.2

The 145.4 per cent increase in District revenues during the 1955-1967 period is due mainly to the combined effect of upward tariff revisions, the addition of new items in the Schedule and substantially increased pilotage traffic, both in number and size of vessels. The first two factors have already been studied; re the third one, vide p. 149.

The decline in 1968 from the 1967 peak of 145.4 per cent to 137.2 per cent should not be considered a sign of the beginning of a downward trend. It was mainly the result of two strikes that particularly affected pilotage traffic. The Seaway employees' 24-day strike (June 21-July 15) brought most transit traffic to a standstill; it was followed immediately by the 60-day (July 18- Sept. 16) Lakehead elevator employees' strike which immobilized lakera as well as ocean-going vessels engaged in the grain trade.

## 9. PENSION FUND

The Quebec Pilots' Pension Fund is the oldest "pilot fund" in Canada. It was established when Trinity House was created in 1805 as the Decayed Pilot Fund (p. 33). At that time, it was truly a pilot fund, i.e., a fund to provide relief for pilots and their dependents whether the pilots concerned were temporarily or permanently incapacitated due to infirmity or age. In that era, there was no question of retirement age and as long as a pilot was still physically and mentally fit he carried on. The sources of revenue for the Fund were the same as today. Trinity House decided what benefits should be paid in each individual case and laid down the conditions. How the Fund was administered is illustrated by the pilots' complaint in 1831 when Trinity House made them pay back the illness benefits they had received and protested against the policy of not allowing any relief to a pilot's dependents if his licence had been cancelled (p. 36).

When Trinity House was abolished in 1875, the administration and trusteeship of the Pilot Fund were given to the recently formed (1860) Pilots' Corporation, i.e., the "Corporation of Pilots for and below the Har-



bour of Quebec", while the other prerogatives of Trinity House were transferred to the new Pilotage Authority, the Quebec Harbour Commissioners (p. 45). In 1914, when the Pilots' Corporation was deprived of all its powers over the management of the pilotage service (p. 59), all that was left was the administration of the Pilot Fund. Ever since, this has remained the sole function of the Pilots' Corporation to which all Quebec licensed pilots automatically belong.

When the pilots were granted the right to retire after reaching a certain age, and later when retirement at 70 was made compulsory, the earlier concept of the Pilot Fund was also changed to provide pensions for those who retired by reason of age. At present, the Quebec Pilot Fund has evolved into nothing more than a pension fund and no benefits are granted to pilots who are in financial difficulty because of temporary physical incapacity while they still hold their licence. Relief for this purpose is provided by the active pilots themselves out of their personal earnings through their pooling system (indemnity turns, p. 115), but is restricted to those pilots who have joined the Association (all have so far) (p. 266 and p. 484). These changes were effected, although the statutory nature of the Pilot Fund, as defined in the 1805 Act, has not changed. The 1849 Trinity House Act, which replaced the 1805 Act and which still applies, is to the same effect in this respect (pp. 263 and ff.).

Beneficiaries and benefits are determined according to the provisions of By-law No. 2 of the Corporation of Pilots for and below the Harbour of Quebec, generally referred to as the Pension Fund Corporation (Ex. 672).

The amount of Pension Fund benefits has been altered many times but basically it is calculated on the number of years of service and contributions by the pilot concerned to the Fund. A minimum pension of \$1,500 is provided for a pilot who is forced to retire for health reasons, provided he has had two years of active service. Benefits for a pilot's widow and his children under 18 are calculated as a fraction—half, third and two-thirds—of what the pilot himself would have been entitled to, with a limitation of \$200 per year per child (for study of the benefits, vide Part I, p. 771).

The Pension Fund is administered by the 1860 Corporation and its Board of Directors assisted by a trust company which holds the securities for safekeeping. Since 1959, they have also sought the expert advice of an investment broker. On the advice of both the trust company and the investment broker, bonds are sold and purchased in order to improve portfolio and yield.

Mr. Paul Henri Guimont, financial expert and investment broker, stated that at the request of the Pilots' Corporation he has acted as financial consultant since 1959, has provided information and forwarded recommendations through the custodian of the fund, General Trust of Canada, in order to improve the yield.

He encountered legal difficulties and felt that the powers of the Directors are not clearly defined and that there is insufficient latitude in the type of investment a fund of this nature may purchase. He pointed out that the trend is toward a wider choice of investments, although these must be made with due regard for safety and for the law. He stressed that there must be some latitude in order to benefit from the fluctuations of the economy and to avoid being imprisoned by a situation such as is created when the economy is sluggish and low yields are derived from investments of the type to which the Pension Fund is restricted by subsec. 981(o) of the Quebec Civil Code. This last grievance no longer exists since the 1967 amendment to subsec. 981 (o) which granted wide latitude in investment of Trust money. (Que. statute 16 Eliz.II c.81).

Despite these handicaps, they have been able to replace many of the low yield bonds, and between 1960 and 1963 the result of this new policy was an increase in revenue of about \$11,000 a year.

When either General Trust of Canada or Mr. Guimont believes there is a portfolio change that would improve the Fund, a proposal is forwarded to the Secretary-Treasurer of the Corporation who submits it to the Board of the Corporation. Using this procedure, the Board of Directors is guided in their decision by two financial experts who give their joint approval. It was stated that there were times when the two experts did not agree.

While General Trust of Canada is paid for its services, Mr. Guimont receives no remuneration directly from the pilots beyond the usual commission on any bonds he may sell.

The revenues of the Fund are still composed of the same items: (a) the compulsory contributions of the pilots which have been altered from time to time, most recently in 1961 when the rate was raised from 7 per cent, as it had been for many years, to 10 per cent; (b) dues collected from non-exempt ships which did not use pilots; (c) fines imposed on pilots and apprentices which according to sec. 708 of the Canada Shipping Act are paid into the Pension Fund; (d) returns from investments; and (e) miscellaneous revenue. In 1962, items (b) and (c) represented 3 per cent and 0.085 per cent respectively of the Fund's income and the pilots' contributions accounted for 68.9 per cent. Returns from investments made up 26.87 per cent. Miscellaneous revenue comprises interest on bank deposits, and discounts and premiums obtained during bond transactions. These vary considerably from year to year and in 1962 amounted to 1.2 per cent of the total (Ex. 597).

The revenues of the Fund have increased greatly: they rose from a total of \$88,520.30 in 1958 to \$203,640.58 in 1964 and to \$297,125.07 in 1968 (Ex. 597). The increase is partly due to the general expansion of the pilots' earnings for various reasons as explained before, but mostly because the pension contributions were raised from 7 per cent to 10 per cent in 1961.

The Pilot Fund revenues collected by the Pilotage Authority are paid over every fortnight at the same time as the regular distribution to the pilots. Remittances are made by cheque from the Pilotage Authority to the Pension Fund Corporation and cover money from all sources that belongs to the fund.

There is no separate administration for the Pilots' Association, the Pension Fund Corporation and the new Pilots' Corporation. The administrative expenses of the Pension Fund, including trust company fees, were absorbed by the new Corporation up to 1967 and, hence, paid out of the pool. The Pension Fund Corporation used to pay the Association in compensation a flat \$1,300 per year which was raised to \$2,000 in 1957. In an effort to increase the solvency of the Fund, this payment was discontinued in 1961 at the request of the active pilots. It amounted to a further contribution by the active pilots to their Pension Fund. With the increasing solvency of the Fund, this stand was modified, first, in 1967, when the trust company fees were paid out directly from the Pension Fund, and, in 1968, the Pension Fund was made to pay a \$300 compensation towards the general administrative costs (Ex.1538(q)).

For years the Quebec Pension Fund, like the Pension Funds in most other Pilotage Districts, has been actuarially unsound. The deplorable state of the Fund was pointed out by the Audette Committee in 1949 but, despite its warning, no remedial action was taken and the Directors continued their reckless course of engaging to pay out larger and larger benefits. They did not appear to understand that the pensions they were providing were not financially justified and would eventually bankrupt the Fund.

In spite of actuarial reports and expert advice, some pilots still remain unconvinced. They contend that a pension scheme is solvent when the yearly pensions are met and when the Fund still continues to increase. This would be true of a Pilot Fund as provided for in the Act but not of a Pension Fund with guaranteed benefits.

On April 12, 1948, the Department of Insurance warned that steps should be taken to prevent the deficit from increasing. Four years later, the outlook was better because the average contribution was larger but the pilots soon exerted pressure to increase benefits as revenues expanded. The Department of Insurance made an actuarial evaluation as of December 31, 1951, and recommended against any increase. In 1954, the pilots modified the pension scheme basically by adopting the principle of relating benefits directly to contributions. This was a step in the right direction but they made no provision for liquidating the accrued deficit and the 1954 amendments were bound to result (and did result) in a continuing deterioration of the Fund to the extent of \$32,000 a year. After its 1958 actuarial appraisal, the Department of Insurance recommended increasing the contribution from 7 to 10 per



cent, a decrease in benefits, inclusion in the regulations of a withdrawal benefit clause in accordance with modern pension practice and, finally, that the regulations be clarified.

Since some pilots could not understand why a fund with such a large amount of capital should show a deficit, the Board consulted other experts who explained to them the serious implications of the report.

At the annual meeting held January 11, 1961 (Ex. 683), the President of the Corporation explained to the pilots what remedies might be applied. He suggested that the situation could be improved by abolishing the \$2,000 compensation being paid by the Pension Fund Corporation for administration; by requesting the oldest pilots to delay their retirement, if at all possible; by obtaining a reduction in the trust company's administrative charges; by increasing the contribution from 7 to 10 per cent. The recommendations were adopted after long discussion.

The Board of Directors did, in fact, succeed in obtaining some reduction in the trust company charges, and the saving thus made ranged from about \$800 to \$900 per year (Bulletin dated June 13, 1961, Ex. 688). In addition, the portfolio was kept under constant review and changes were made in order to obtain a better interest yield. This resulted in a significant increase: from 3.74 per cent to 4.85 per cent in 1961 and to 5.13 per cent in 1962.

A new actuarial study in 1962 showed that the situation had improved but the evaluation, which was based on a 4 per cent interest yield, showed that the estimated deficit as of December 15, 1962, was still in the order of \$588,000 (Ex. 704) (Part I, p.773). A new evaluation made by the Commission's consultant based on the same interest rate of 4 per cent as of December 31, 1963, showed a slight improvement. The actuarial deficit amounted then to \$553,148, i.e., a liability of \$7,278.63 per year pilot (Part I, p. 774). The last evaluation carried out by the Department of Insurance dates from December 31, 1966; the aggregate actuarial deficit had by then been reduced to \$399,000 (Ex.1538 (r)).

Another improvement was the adoption of a new set of by-laws. Sec. 27 of the new By-law No. 2 dealing with pension benefits stipulates that an amendment requires a majority of two-thirds of the members in attendance. The main aim of the revision was to define the functions of the Directors and to restrict their powers which hitherto had been unlimited. For instance, on their own recognizance they could raise the benefits without the pilots' consent and without ascertaining whether the Fund could support the increases, e.g., in 1959, the pension benefits were increased from 15 per cent to 17 per cent without even waiting for the auditors' report. The pilots realized that this dangerous discretionary power had to be curtailed.

Pilot Maurice Koenig stated that he recalled that when he was a member of the Board of Directors the pensions were increased on one

occasion by \$200 per pensioner without the question being referred to the members of the Corporation and without any expert advice being sought.

While the pension benefits paid out rose from \$35,745.11 in 1954 to \$62,691.90 in 1964, the amount remaining in the Fund also substantially increased from \$72,086.82 in 1958 to \$1,328,918.61 in 1964.

The 1968 Pension Fund Financial Report (Ex. 597) shows a capital gain in the 1968 pooling year of \$215,016.96, bringing the Fund to \$2,130,327.16 as of December 15. Receipts and disbursements for that year were:

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REVENUES

*Received from Pilotage Authority*

Compulsory contributions (10%).....	\$ 179,270.13
Dues paid from ships without pilots.....	6,771.65
Fines.....	nil

*Fund's own revenues*

Interest on investments (average yield 5.88%).....	104,866.88
Interest on bank accounts.....	1,796.85
Discounts and premiums on purchase and sale of bonds.....	4,302.50
Miscellaneous.....	117.06

Total.....	297,125.07
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DISBURSEMENTS

Pension benefits paid (54 pensioners).....	80,664.11
Trust company fees.....	1,144.00
Administration.....	300.00

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82,108.11

Surplus for the year.....	215,016.96
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One of pilot Koenig's criticisms refers to the inadequacy of benefits in relation to each pilot's contributions to the Fund. When he retires after 36 years of service, his contributions will amount to \$40,000 and the pension benefits he will receive will be in the order of \$3,000 to \$3,500 a year, the pension payable to his widow will be two-thirds, provided she does not remarry, and there will also be benefits for any minor children. He believes that he would have been able to make better arrangements with that money himself. He argues that the Pension Fund should have been dissolved three years ago and that the present individual contribution is exorbitant and unnecessary.

The pilots' Brief (para. 286 and ff.) states that much of the trouble stems from the legislative and administrative handicaps imposed on the Fund

(p. 264 and 265), that the administrative mechanism is antiquated, that the Board of Directors has too much power, that due to changes in administration of pilotage such as the abrogation of Trinity House, etc., the method of amending the by-laws led to contradictory interpretations that were and remain a recurring source of conflict (pp. 264-266), and, finally, that authority to invest is too limited.

The Pilots' Corporation points out that with proper direction the pilots can look after their own pension problems and that the administration of the Fund should be left entirely to them. Since they are directly concerned, they maintain a keen interest in the Fund and lose no opportunity to improve it. The basic principles of organization had not changed since 1875 and it was within that framework that they were piling up larger and larger deficits prior to 1959. Therefore, they urge that the provisions of the Canada Shipping Act dealing with pensions should be abolished because they believe they are outdated and no longer needed and that pension plans should be left entirely to the discretion of each pilot group.

For study of the legal situation of Pension Funds, the Commission's remarks and recommendations, vide Part I, C.10 and Recommendation No. 39.



## Chapter D

For Recommendations affecting this District, see Section Five.

## Chapter E

# APPENDICES

### APPENDIX A

Shipping Casualties, Accidents and Incidents Involving Pilots:

- (1) Table—Comparative statistical analysis for the ten-year period 1959-1968 inclusive.
- (2) Summary—Detailed analysis for the years 1963 and 1968.

### APPENDIX B

- (1) Graphs a. June 1962 workload of pilot Paul Emile Cloutier.  
b. June 1963 workload of pilot Paul Emile Cloutier.  
c. June 1964 workload of pilot Paul Emile Cloutier.
- (2) Tables a. Comparative detailed analysis of workload of pilot Paul Emile Cloutier during the month of June for the three-year period 1962, 1963 and 1964.  
b. Comparative summary of workload of pilot Paul Emile Cloutier during the month of June for the three-year period 1962, 1963 and 1964.

### APPENDIX C

- (1) Graph—Showing the variation in the aggregate number of trips on a per month basis for the years 1963-1968 inclusive.
- (2) Table—Aggregate number of trips by Quebec pilots each month during the years 1963-1968 inclusive.

### APPENDIX D

- (1) Table—Comparative summary of workload of busiest pilot during busiest month for the three-year period 1962, 1963 and 1964.
- (2) Table—Comparative summary of workload of busiest pilot during least busy month for the three-year period 1962, 1963 and 1964.

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS INVOLVING  
PERIOD 1959-

TYPE OF CASUALTY, ACCIDENT OR INCIDENT	1959	1960	1961
<b>A. EVENTS WHILE NAVIGATING</b>			
I. MAJOR CASUALTIES (with or without loss of life):			
(a) Loss or abandonment of ship.....	0	0	0
(b) Major strandings.....	3	0	1
(c) Heavy damage to ship (other than above)	2	0	0
	— 5	— 0	— 1
II. MINOR CASUALTIES (without loss of life):			
(a) Minor strandings.....	3	2	3
(b) Minor damage to ships.....	0	1	2
	— 3	— 3	— 5
III. ACCIDENTS (without damage to ships).....	0	0	0
IV. INCIDENTS (without any damage whatsoever):			
(a) Touching bottom in channel.....	0	4	4
(b) Others.....	0	1	1
	— 0	— 5	— 5
	8	8	11
<b>B. EVENTS WHILE BERTHING, UNBERTHING OR ANCHORING</b>			
I. MAJOR CASUALTIES (with or without loss of life):			
(a) Major strandings.....	0	0	1
(b) Heavy damage to ship—striking pier.....	0	0	0
	— 0	— 0	— 1
II. MINOR CASUALTIES (without loss of life):			
(a) Minor strandings.....	1	0	0
(b) Minor damage to ship:			
(i) Striking pier.....	9	6	8
(ii) Striking vessel—berthing or unberthing.....	2	1	4
(iii) Striking vessel—anchoring.....	0	0	1
(iv) Others.....	0	0	3
	— 11	— 7	— 16
	— 12	— 7	— 16
III. ACCIDENTS (without damage to ships):			
(a) Damage to pier.....	0	2	1
(b) Damage to buoys.....	0	0	0
	— 0	— 2	— 1
IV. INCIDENTS (without any damage whatsoever):			
(a) Striking pier.....	0	3	0
(b) Striking vessel at pier.....	0	0	1
(c) Others.....	0	0	0
	— 0	— 3	— 1
	12	12	19
<b>GRAND TOTAL.....</b>	<b>20</b>	<b>20</b>	<b>30</b>

SOURCE: Exhibit 1467.



A (1)

QUEBEC DISTRICT PILOTS DURING THE TEN-YEAR  
1968 INCLUSIVE

1962	1963	1964	1965	1966	1967	1968
0 3 0 — 3	1 0 1 — 2	1 1 0 — 2	0 0 1 — 1	0 1 0 — 1	1 0 0 — 1	1 0 0 — 1
2 2 — 4 0	2 1 — 3 0	3 0 — 3 0	6 2 — 8 1	3 0 — 3 0	2 3 — 5 1	2 0 — 2 0
8 1 — 9 16	2 1 — 3 8	0 1 — 1 6	2 3 — 5 15	3 2 — 5 9	3 0 — 3 10	2 0 — 2 5
0 0 — 0 0	0 1 — 1 1	0 0 — 0 0	0 0 — 0 0	0 0 — 0 0	0 0 — 0 0	0 0 — 0 0
9 3 0 2 — 14 — 14	9 3 3 4 — 19 — 20	6 0 0 0 — 6 — 6	7 1 0 0 — 8 — 8	7 0 0 0 — 7 — 7	12 2 0 1 — 15 — 15	6 2 0 0 — 8 — 8
1 0 — 1 — 1	0 1 — 1 — 1	1 0 — 1 — 1	4 0 — 4 — 4	1 0 — 1 — 1	0 0 — 0 — 0	0 0 — 0 — 0
2 1 0 — 3 — 3	2 0 2 — 4 — 4	2 2 1 — 5 — 5	4 1 0 — 5 — 5	2 5 1 — 8 — 8	3 1 0 — 4 — 4	2 0 0 — 2 — 2
18 34	26 34	12 18	17 32	16 25	19 29	10 15

## Appendix A (2)

### SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS WITH A QUEBEC DISTRICT PILOT ON BOARD DURING THE YEARS 1963 AND 1968

The years 1963 and 1968 represent the greatest and least number of events respectively during the past ten years. The details are as follows:

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1963

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#### A. EVENTS WHILE NAVIGATING

##### I. MAJOR CASUALTIES (with or without loss of life):

###### (a) *Loss or abandonment of ship*

1. July 20—*Roonagh Head* and *Tritonica* collided in the St. Lawrence River at Quebec during fog, resulting in thirty-three fatalities and approximate loss of \$4,000,000—heavy damage to *Roonagh Head* and foundering of *Tritonica*. For further details, vide pp. 368 and ff.

###### (b) *Major strandings*

— nil

###### (c) *Heavy damage to ship* (other than above)

1. July 19—*Canadoc*, *Bariloche* and *Calgadoc* were involved in a triple collision off Lauzon during fog, with damage estimated at \$150,000 to *Canadoc*, considerable damage to *Bariloche*, and *Calgadoc's* starboard bow damaged. For further details, vide p. 134.

##### II. MINOR CASUALTIES (without loss of life):

###### (a) *Minor strandings*

1. September 5—*Jarmina* grounded in the St. Lawrence River one cable west of buoy 114B; damage not stated. Caused by pilot error—letter of reprimand sent by Superintendent of Pilots.
2. September 18—*Eaglescliffe Hall* grounded on north side of channel abeam the upper end of Ile Madame; no damage. Caused by pilot error—pilot suspended.

###### (b) *Minor damage to ships*

1. July 18—*Seven Skies* and *Cartier* collided slightly in fog downbound from Quebec; damage light. For further details, vide pp. 393 and ff.

##### III. ACCIDENTS (without damage to ships):

— nil

##### IV. INCIDENTS (without any damage whatsoever):

###### (a) *Touching bottom in channel*

1. May 14—*Helisona* shuddered near Cap Gribane 25-foot patch with no apparent damage; caused by silting.
2. November 29—*Siganka* felt slight disturbance passing over the bar near Cap Gribane 25-foot patch with no damage; caused by deep draught.

###### (b) *Others*

1. May 14—*Lynda* felt vibration at Cape Brûlé; damage and cause unknown.

## B. EVENTS WHILE BERTHING, UNBERTHING OR ANCHORING

### I. MAJOR CASUALTIES (with or without loss of life):

#### (a) *Major strandings*

— nil

#### (b) *Heavy damage to ship*

1. June 12—*Deerwood* struck Pier 18 wall while berthing, resulting in stern twisted, port and starboard bow plates buckled and plates indented. Caused by mechanical failure.

### II. MINOR CASUALTIES (without loss of life):

#### (a) *Minor strandings*

1. November 28—*Louisburg* scraped bottom port side entering Inner Louise Basin; damage not stated. Caused by heavy draught and difficulties with tug.

#### (b) *Minor damage to ship*

##### (i) Striking pier:

1. January 27—*Manja Dan* struck cement wall of Section 3 at Wolfe's Cove with her bow manoeuvring in a snow storm, damaging her bow.
2. April 17—*Niceto de Larinega* scraped the wharf of shed 19 at Quebec while unberthing, damaging her bow. Cause is unknown; Master not on bridge.
3. April 21—*Nordpol* lightly touched the corner of Powell Wharf at Port Alfred during gale force winds, resulting in plate being dented.
4. May 19—*Wasaborg's* stem came in contact with East End Wharf at Wolfe's Cove while berthing, resulting in a dented bow. Caused by tug line parting while manoeuvring and slowness in letting go anchor.
5. June 9—*Esso Danmark's* starboard side struck the stone pier No. 5 in Section 6 at Wolfe's Cove; damage not stated. Caused by tug topline parting while manoeuvring.
6. September 23—*Askot's* flare of bow struck entrance of Inner Louise Basin resulting in damage to her bow. Caused by current and broken tow line while manoeuvring.
7. October 23—*Leise Maersk* struck corner No. 3 of Powell Wharf at Port Alfred while berthing, with slight damage to her bow. Caused by pilot coming in too fast—pilot given warning by District Superintendent of Pilots at Quebec.
8. November 24—*Roma Maersk* struck wharf at Princess Louise Basin, with damage to her bow. Caused by wind.
9. November 29—*Holmgår* struck British Petroleum Wharf No. 50 at Quebec, damaging her bow. Caused by excessive speed while manoeuvring—pilot reprimanded by District Superintendent of Pilots.

##### (ii) Striking vessel berthing or unberthing:

1. April 30—*Menihék Lake* set down on H.M.C.S. *Provider* at Lauzon, damaging bulwarks and stanchions respectively. Caused when tug failed to carry out orders during manoeuvring.
2. October 29—*Cleopatra* touched berthed *Malow* at Shed 28 in Quebec while berthing, damaging stern rails and propeller. Caused by manoeuvring difficulties when tow line parted.
3. December 18—*Wabana* caught the port davit and collided with the tug *Robert B* at Quebec, with minor deck damage to tug. Caused by manoeuvring difficulties in restricted space. There was no pilot on board the tug.

##### (iii) Striking vessel anchoring:

1. May 5—*Transcanada* touched moored *C. D. Howe* in Quebec harbour, denting her bulwarks. Caused by steering gear failure. There was no pilot on board the *C. D. Howe*.



## Study of Quebec Pilotage District

2. July 20—*Conde de Fontanar* anchored on wreck of submerged *Tritonica* in the St. Lawrence River, resulting in a leak in forepeak. Caused by fog.
3. August 24—*Sparkman D. Foster* struck moored barge *Federal 8* off Lauzon, with \$750 damage to barge. Caused by broken tow line. There was no pilot on board the barge.

### (iv) Others:

1. April 13—*Sunek's* bow brushed slightly against the operator's cubicle of crane at Port Alfred, damaging both her bow and the shore installations. Caused by manoeuvring during wind—investigated but no action recommended.
2. October 29—*Sunbreeze* caught legs of unloading crane with her star-board bow while unberthing from Duncan Wharf at Port Alfred, damaging her rails and the shore crane. Caused by pilot's error in use of tugs—investigated.
3. November 13—*Cape Araxos* dropped port anchor in approximately 14 fathoms of water above Morin Shoal whereby ten shackles came out. Cause not stated.
4. December 9—*Nicolas S.* lost port anchor and three shackles of chain when anchoring at Cap aux Oies anchorage. Caused by anchor cable parting in storm.

## III. ACCIDENTS (other than casualties):

### (a) Damage to pier

— nil

### (b) Damage to buoys

1. September 5—*Ryndam* drifted on buoy 12Q while berthing in Wolfe's Cove, damaging the buoy. Caused by manoeuvring in strong current.

## IV. INCIDENTS (without any damage whatsoever):

### (a) Striking pier

1. October 1—*Tel Aviv* struck berth No. 29 with her stern while unberthing in Quebec harbour without causing damage. Caused when tug did not manoeuvre as ordered.
2. November 29—*Louisburg* struck an Inner Basin wharf when unberthing without causing damage. Caused by manoeuvring during wind.

### (b) Striking vessel at pier

— nil

### (c) Others

1. October 16—*Slavsk* touched grain loading spout when unberthing in Quebec harbour without causing damage. Caused by tug during manoeuvring.
2. October 23—*Deerwood* grounded for an hour in soft mud off Anglo Wharf when unberthing without causing damage. Caused when back spring parted while manoeuvring.

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## A. EVENTS WHILE NAVIGATING

### I. MAJOR CASUALTIES (with or without loss of life):

#### (a) Loss or abandonment of ship

1. November 13—*Clara Clausen* grounded on the north shore of the St. Lawrence River  $1\frac{1}{2}$  miles above Les Escoumins resulting in a total loss. For further details, vide pp. 414 and ff.

- (b) *Major strandings*  
— nil
- (c) *Heavy damage to ship* ( other than above)  
— nil

II. MINOR CASUALTIES (without loss of life):

- (a) *Minor strandings*
  - 1. July 26—*Bernes* grounded south-west of buoy 110B on shoal patch in Orleans Island Channel with only minor damage.
  - 2. September 7—*Rikke Skou* grounded off Pointe Noire during fog with only minor damage.
- (b) *Minor damage to ships*  
— nil

III. ACCIDENTS (without damage to ships):  
— nil

IV. INCIDENTS (without any damage whatsoever):

- (a) *Touching bottom in channel*
  - 1. April 17—*James Transport* grounded in vicinity of buoy 25S in the St. Fulgence Channel without damage. Caused by sun blinding those observing range lights.
  - 2. July 13—*Irving Birch* grounded at buoy 12S in St. Fulgence Channel without damage. Caused by pilot error.
- (b) *Others*  
— nil

B. EVENTS WHILE BERTHING, UNBERTHING OR ANCHORING

I. MAJOR CASUALTIES (with or without loss of life):

- (a) *Major strandings*  
— nil
- (b) *Heavy damage to ship*  
— nil

II. MINOR CASUALTIES (without loss of life):

- (a) *Minor strandings*  
— nil
- (b) *Minor damage to ship*
  - (i) Striking pier:
    - 1. January 2—*Chimo* struck quay while berthing in Quebec harbour with only minor damage. Caused by error in manoeuvring.
    - 2. January 26—*Beaverpine* struck quay in Quebec harbour with only minor damage. Caused by thick ice and winds up to 35 m.p.h.
    - 3. June 25—*Karlsburg* struck wharf at Wolfe's Cove with only minor damage. Caused by error in manoeuvring.
    - 4. September 4—*Lottinge* struck quay in Quebec harbour with only minor damage. Caused by error in manoeuvring.
    - 5. September 13—*Charlton Mira* struck quay at Section 51 in Quebec harbour with only minor damage. Caused by error in manoeuvring.
    - 6. December 6—*Barbara* struck quay in Quebec harbour with only minor damage. Caused by sudden squall of wind.
  - (ii) Striking vessel berthing or unberthing:
    - 1. June 1—*Split* struck *Foundation Venture* at Champlain Dry Dock in Lauzon, damaging the latter vessel. Caused by pilot error.
    - 2. September 15—*Empress of Canada* struck *Bristol City* at Wolfe's Cove with only minor damage. Caused by error in manoeuvring.

*Study of Quebec Pilotage District*

(iii) Striking vessel anchoring:

— nil

(iv) Others:

— nil

III. ACCIDENTS (without damage to ship):

— nil

IV. INCIDENTS (without any damage whatsoever):

(a) *Striking pier*

1. April 22—*Giuan* struck pier in Quebec harbour with no damage reported. Caused by error in manoeuvring.

2. December 9—*Irvingwood* struck Sillery Wharf without damage. Caused by manoeuvring error.

(b) *Striking vessel at pier*

— nil

(c) *Others*

— nil

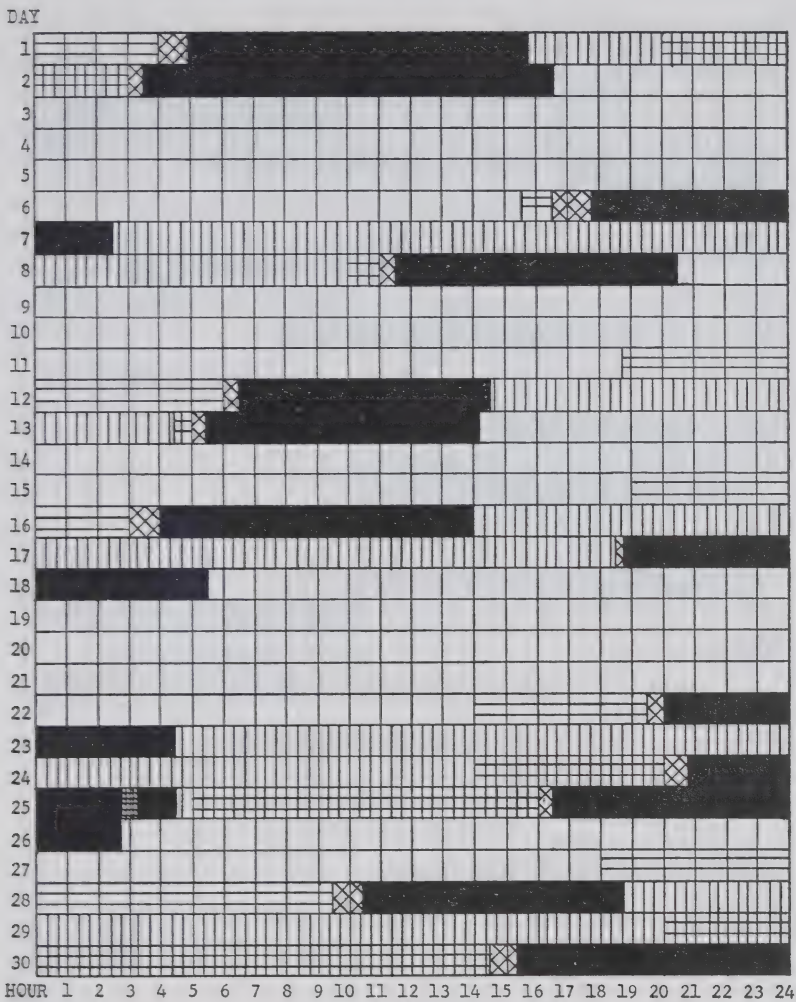
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SOURCES: Exhibits 1466 and 1467.










Appendix B (1)

JUNE 1962 WORKLOAD OF PILOT PAUL EMILE CLOUTIER



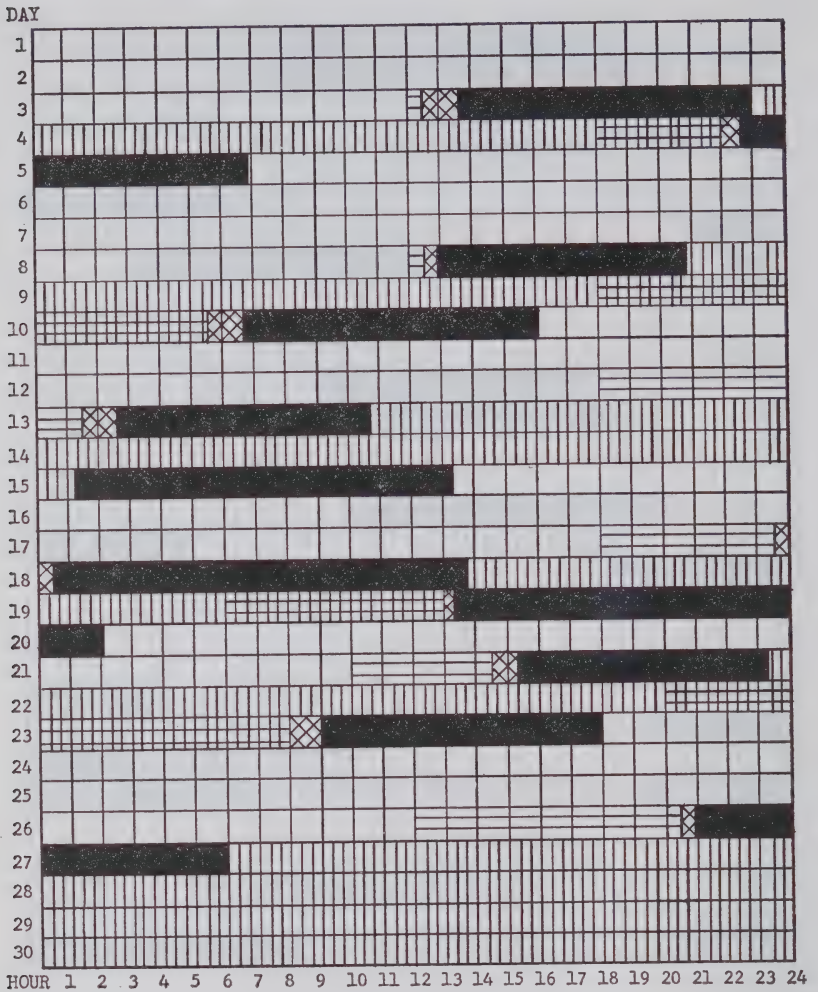
LEGEND:

- |  |  |   |                                    |   |  |
|--|--|---|------------------------------------|---|--|
|  | Awaiting departure after reported time |  | At home, available                 |  | Waiting at home after ordered time received        |
|  | Piloting                               |  | Away from home awaiting assignment |  | Waiting away from home after ordered time received |
|  | Detention at anchorage awaiting orders |   |                                    |   |  |







SOURCE: Appendix B (2).

Appendix B (1)

JUNE 1963 WORKLOAD OF PILOT PAUL EMILE CLOUTIER



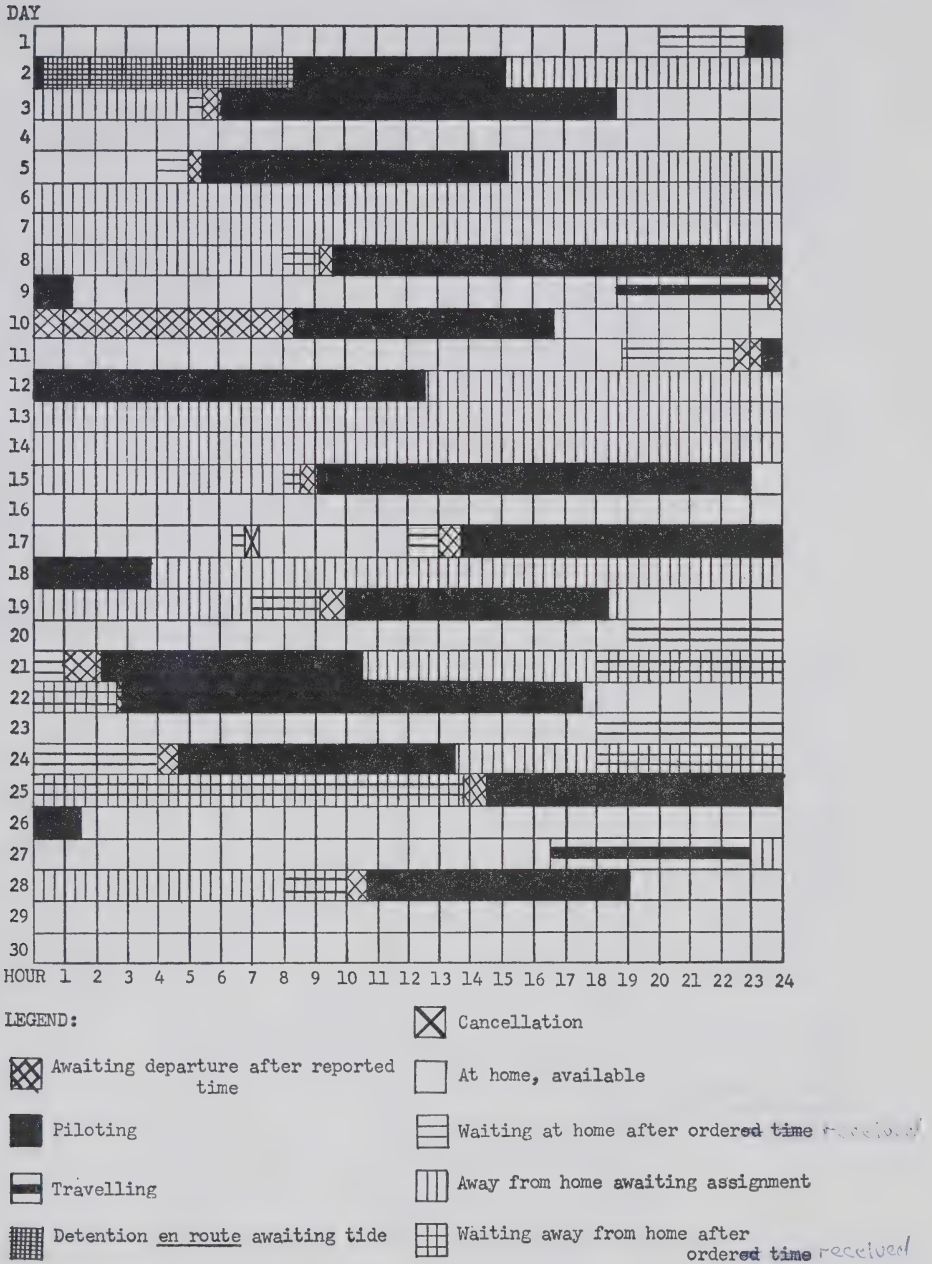
LEGEND:

- |   |  |
|---|--|
|  Awaiting departure after reported time    |  At home, available                 |
|  Piloting                                  |  Waiting at home after ordered time |
|  Waiting away from home after ordered time |  Away from home awaiting assignment |
- received

SOURCE: Appendix B (2).

Appendix B (1)

JUNE 1964 WORKLOAD OF PILOT PAUL EMILE CLOUTIER



SOURCE: Appendix B (2).



## Appendix B (2)

COMPARATIVE DETAILED ANALYSIS OF WORKLOAD OF PILOT  
PAUL EMILE CLOUTIER DURING THE MONTH OF JUNE FOR THE  
THREE-YEAR PERIOD 1962, 1963 AND 1964

Item	June 1962				June 1963				June 1964			
	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
<i>Piloting Trips</i>												
Quebec-Les Escoumins.....	1		10	50	3		9	20	1-2		8	20
	6-7		8	40	8		7	55	5		9	45
	12		8	10	13		8	5	11-12		13	15
	16		10	5	18		13	20	17-18		14	5
	22-23		8	30	21		7	55	21		8	20
	28		8	10	26-27		9	5	24		8	55
		2	6	25		2	7	40		2	14	40
Les Escoumins-Quebec.....	2		13	0	4-5		8	15	3		12	35
	8		9	0	10		9	25	8-9		15	40
	13		8	40	15		12	5	10		8	20
	17-18		10	45	19-20		12	45	15		13	50
	29		8	40	23		9	0	19		8	20
	—		0	0	—		0	0	22		14	40
	—		0	0	—		0	0	25-26		11	0
	—		0	0	—		0	0	28		8	25
		2	2	5		2	3	30		3	20	50
Les Escoumins-Port Alfred.....	24-25		6	0	—		0	0	—		0	0
Port Alfred-Quebec	25-26		10	10	—		0	0	—		0	0
Total trips.....		5	0	40		4	11	10		6	11	30
Movage: Port Alfred..	25		1	15	—		0	0	—		0	0
Total piloting.....		5	1	55		4	11	10		6	11	30
<i>Detention</i>												
St. Jean, I.O.....	—		0	0	—		0	0	2		7	55
Port Alfred.....	25		30	0	—		0	0	—		0	0
<i>Cancellation</i>												
Quebec.....	—		0	0	—		0	0	17		25	0
<i>Travelling</i>												
Quebec-Les Escoumins.....	—		0	0	—		0	0	9		4	50
	—		0	0	—		0	0	27		6	30
Total workload.....		5	2	25		4	11	10		7	7	10
<i>Awaiting Departure after Reported Time</i>												
Quebec.....	1			55	3		1	10	1			5
	6		1	20	8			25	5			30
	12			30	13		1	10	11			50
	16			55	17-18		1	0	17			45
	22			25	21			50	21		1	10
	28		1	5	26			25	24			40
			5	10			5	0			4	0

Item	June 1962				June 1963				June 1964			
	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
Les Escoumins.....	2		30		4		40		3		40	
	8		30		10	1	10		8		30	
	13		30		19		20		9-10	8	50	
	17		10		23	1	0		15		40	
	24		45		—		0		19		45	
	30		50		—		0		22		25	
	—		0		—		0		25		40	
	—		0		—		0		28		40	
		3	15			3	10			13	10	
Port Alfred.....	25		30		—		0		—		0	
Total.....		8	55			8	10			17	10	
<i>At Home, Waiting to Report after Order Received</i>												
Quebec.....	1	4	0		3		30		1	2	50	
	6	1	5		8		30		5	1	0	
	11-12	11	10		12-13	7	30		11	3	40	
	15-16	8	0		17	5	30		17	1	30	
	22	5	30		21	4	30		20-21	6	0	
	27-28	15	30		26	8	30		23-24	10	0	
		1	21	15		1	3	0		1	1	0
<i>Away from Home</i>												
Les Escoumins.....	1- 2	7	0		4	4	0		3		30	
	8	1	0		9-10	11	30		8	1	10	
	13		30		19	7	0		15		30	
	17		5		22-23	12	0		19	2	15	
	24	6	0		—		0		21-22	8	30	
	29-30	18	30		—		0		24-25	19	50	
	—		0		—		0		28	2	0	
		1	9	5		1	10	30		1	10	45
Port Alfred.....	25	11	0		—		0		—		0	
Total.....		3	17	20		2	13	30		2	11	45
<i>Away from Home Awaiting Assignment</i>												
Les Escoumins.....	1	4	15		3- 4	19	0		2- 3	13	50	
	7- 8	1	7	30	8- 9	21	10		5- 8	2	16	45
	12-13		13	50	13-15	1	14	30	12-15	2	19	25
	16-17	1	4	30	18-19		16	10	18-19	1	3	10
	23-24	1	9	35	21-22		20	45	21		7	30
	28-29	1	1	15	27-30	3	18	0	24		4	25
	—		0		—		0		27-28		9	0
		5	16	55		8	13	35		8	2	5
Port Alfred.....	25		30		—		0		—		0	
Total waiting.....		5	17	25		8	13	35		8	2	5

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Item	June 1962					June 1963					June 1964				
	Dates	days	hrs.	mins.		Dates	days	hrs.	mins.		Dates	days	hrs.	mins.	
<i>At Home, Available</i>															
Quebec.....	2- 6	3	22	55		1- 3	2	12	0		1		20	0	
	8-11	2	22	20		5- 8	3	5	5		3- 5	1	9	15	
	13-15	2	4	50		10-12	2	1	55		9		17	20	
	18-22	4	8	30		15-17	2	4	40		10-11	1	2	10	
	26-27	1	15	20		20-21	1	7	55		15-17	1	12	5	
	—			0		23-26	2	18	0		19-20	1	0	40	
	—			0		—			0		22-23	1	0	25	
	—			0		—			0		26-27	1	15	0	
	—			0		—			0		28-30	2	4	55	
Total.....		15	1	55			14	1	55			11	9	50	
Grand Total.....		30	0	0			30	0	0			30	0	0	

Source: Ex. 733.

COMPARATIVE SUMMARY OF WORKLOAD OF PILOT PAUL EMILE CLOUTIER DURING THE MONTH OF JUNE FOR THE THREE-YEAR PERIOD 1962, 1963 AND 1964

Item	June 1962					June 1963					June 1964				
	Turns* days hrs. mins.					Turns days hrs. mins.					Turns days hrs. mins.				
<i>Trips</i>															
Quebec-Les Escoumins	6	2	6	25		6	2	7	40		6	2	14	40	
Les Escoumins-Quebec	5	2	2	5		5	2	3	30		8	3	20	50	
Other.....	2		16	10		0			0		0			0	
Movage.....	1		1	15		0			0		0			0	
Total piloting.....	14	5	1	55		11	4	11	10		14	6	11	30	
Detention.....	1		30			0			0		1		7	55	
Cancellation.....	0		0			0			0		1			25	
Travelling.....	0			0		0			0		2		11	20	
Total workload.....	15	5	2	25		11	4	11	10		18	7	7	10	
<i>Waiting Time</i>															
Away from home.....	7	7	17	15		6	10	3	15		8	10	2	0	
At home, available.....	6	17	4	20		6	15	9	35		9	12	14	50	
Grand Total.....	28	30	0	0		23	30	0	0		35	30	0	0	

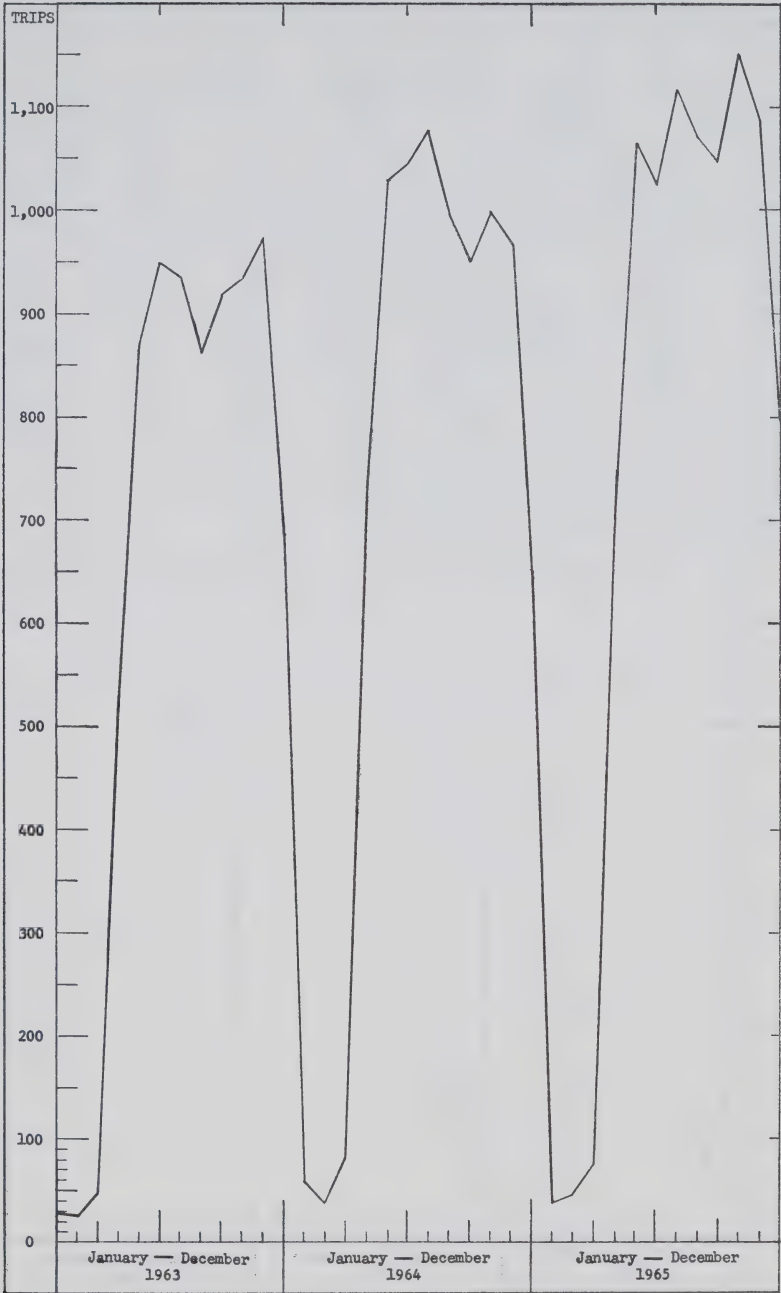
SOURCE: Ex. 733.

\*In tables of this nature, *turns* should be taken to mean *times* in connection with items other than assignments.



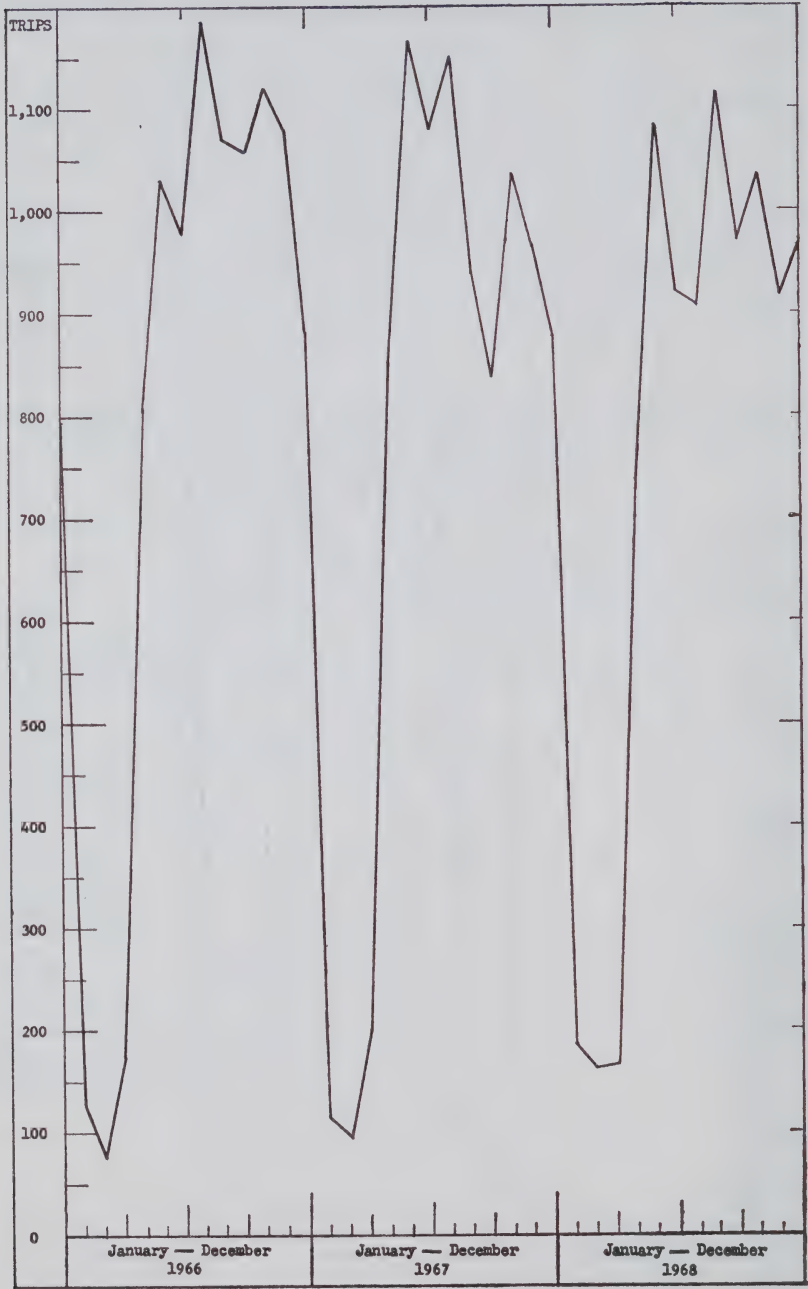
Appendix C (1)

AGGREGATE NUMBER OF TRIPS BY QUEBEC PILOTS EACH MONTH  
DURING 1963, 1964 AND 1965



Appendix C (1)

AGGREGATE NUMBER OF TRIPS BY QUEBEC PILOTS EACH MONTH  
DURING 1966, 1967 AND 1968



Appendix C (2)

AGGREGATE NUMBER OF TRIPS BY QUEBEC PILOTS EACH MONTH  
DURING THE YEARS 1963—1968 INCLUSIVE

Month	1963	1964	1965	1966	1967	1968
January.....	28	58	38	127	116	186
February.....	26	38	44	78	97	162
March.....	48	82	76	174	200	164
April.....	529	734	701	806	852	739
May.....	868	1,029	1,063	1,030	1,166	1,082
June.....	949	1,045	1,023	979	1,081	921
July.....	935	1,077	1,117	1,185	1,150	908
August.....	863	994	1,070	1,071	939	1,113
September.....	919	950	1,048	1,050	839	971
October.....	933	999	1,149	1,120	1,035	1,032
November.....	972	965	1,085	1,078	966	918
December.....	686	651	795	882	878	967
Annual Aggregate.....	7,756	8,622	9,209	9,580	9,320	9,163
Monthly Average.....	646.3	718.5	767.4	798.3	776.7	763.6

SOURCE: Ex. 1538(y).



## Appendix D (1)

COMPARATIVE SUMMARY OF WORKLOAD OF BUSIEST PILOT  
DURING BUSIEST MONTH FOR THE THREE-YEAR PERIOD  
1962, 1963 AND 1964

Busiest Pilot during Busiest Month	October 1962 Pilot David Bouffard				November 1963 Pilot J.J.R. Labrie				July 1964 Pilot Henri Brochu			
	Turns days hrs. mins.				Turns days hrs. mins.				Turns days hrs. mins.			
<i>Trips</i>												
Quebec-Les Escoumins	8	3	7	35	8	3	22	15	5	1	22	45
Les Escoumins-Quebec	11	4	13	20	7	3	8	30	6	2	7	40
Other.....	1		4	10	2		7	50	3		11	10
<i>Movages</i> .....	0			0	0			0	3		5	45
Total piloting.....	20	8	1	5	17	7	14	35	17	4	23	0
<i>Detention</i> .....	0			0	1	1	4	20	1		18	45
<i>Cancellation</i> .....	0			0	0			0	1	1	21	0
<i>Travelling</i> .....	2		10	0	4		20	0	2		10	0
Total workload.....	22	8	11	5	22	9	14	55	21	8	0	45
<i>Waiting Time</i>												
Away from home.....	10	5	12	45	6	3	4	20	7	9	10	10
At home, available.....	11	17	0	10	10	17	4	45	9	13	13	5
<i>Grand Total</i> .....	43	31	0	0	38	30	0	0	37	31	0	0

SOURCE: Ex. 736.

## Appendix D(2)

COMPARATIVE SUMMARY OF WORKLOAD OF BUSIEST PILOT  
DURING LEAST BUSY MONTH FOR THE THREE-YEAR PERIOD  
1962, 1963 AND 1964

Busiest Pilot during Least Busy Month	September 1962 Pilot J. F. A. Vézina				May 1963 Pilot Achille Couet				September 1964 Pilot J. Y. G. Dufour			
	Turns days hrs. mins.				Turns days hrs. mins.				Turns days hrs. mins.			
<i>Trips</i>												
Quebec-Les Escoumins	6	2	9	10	8	3	1	10	7	2	6	55
Les Escoumins-Quebec	5	2	2	35	8	3	7	30	5	1	14	35
Other.....	3	1	9	40	2		12	45	1		6	50
<i>Movages</i> .....	3		4	15	0			0	2		2	35
Total piloting.....	17	6	1	40	18	6	21	25	15	4	6	55
<i>Detention</i> .....	1	1	6	25	1		4	15	1	2	23	35
<i>Cancellation</i> .....	0			0	0			0	0			0
<i>Travelling</i> .....	1		5	0	0			0	2		10	0
Total workload.....	19	7	13	5	19	7	1	40	18	7	16	30
<i>Waiting Time</i>												
Away from home.....	11	7	22	0	11	10	8	5	6	5	6	35
At home, available.....	7	14	12	55	8	13	14	15	9	17	0	55
<i>Grand Total</i> .....	37	30	0	0	38	31	0	0	33	30	0	0

SOURCE: Ex. 734.

## Section Two

LOWER ST. LAWRENCE RIVER PORTS  
AND AREAS

## PREAMBLE

The open waters of the lower part of the St. Lawrence River east of Les Escoumins pilot station present no particular navigational problems or difficulties other than those ordinarily met during navigation at sea. No local experience in the navigation of these waters is necessary and the little local knowledge needed is readily available from official publications, such as nautical charts, sailing directions (St. Lawrence River Pilot, Parts 1 to 5), Notices to Mariners and guidance to merchant ships navigating in winter. There is no need for pilotage service in that area.

The estuary of the River is wide. Except close to shore, its waters are deep and unobstructed. The area has ample navigational aids. Major lights, fog signals and radio beacons are maintained along the route during the winter, as is the Decca system which covers most of the area. In general, the aids to navigation provided for winter navigation far exceed the minimum requirements for safety. In some areas, there is full coverage by radio beacons, Loran and Decca, as well as visual and audio aids.

Winter navigation is facilitated by the efficient Department of Transport Ice Information and Guidance Service for ships navigating in that area (vide p. 200).

In general, harbours along the River east of Les Escoumins do not present any particular navigational difficulties and there is no organized public pilotage service at any port in the area.

Prior to 1960, because no local pilotage service was available, shipping companies trading on the St. Lawrence River used to place on board their ships a person familiar with the port of destination, unless the Master had sufficient knowledge of the area. Such persons were pilots in that they were not members of the crew and went from ship to ship as required. Since these ports are not included in any Pilotage District, no pilot licence was, or could be, issued and any one could offer his services and be employed. Ships trading on the St. Lawrence River used to take *en route* one such pilot who travelled to the port of destination where he rendered his services and was disembarked somewhere along the return trip, only to embark in another vessel for the same purpose. At that time, such services were mostly provided with the permission of the District Superintendent by the licensed pilots and apprentice pilots of the District of Quebec (p. 205). The apprentice pilots were enabled to earn a little income and the licensed pilots increased their remuneration by performing unofficial work in addition to their regular workload. The charge for these services was a matter of private agreement with the agent or the Master. It belonged to the pilot personally and did not appear in the amount shown as the remuneration of a licensed pilot.

When the pilotage service in the Quebec District was reorganized in 1960, this practice was discontinued.



At the present time, pilotage services can be obtained locally. As these ports increased in importance following the opening of the Seaway and the considerable mining developments in the Quebec/Labrador area, local pilotage services were organized and provided by the industries at each port.

These local pilotage services provided by private sources work well and no complaints against them have been received from shipping.

In keeping with its proposal that only licensed pilots be allowed to pilot in Canada and, therefore, that any area where pilotage is being performed should be included in a Pilotage District, the Federation of the St. Lawrence River Pilots recommended that the Lower St. Lawrence ports, i.e., the harbours of Rimouski, Forestville, Port-Cartier, Sept-Îles, Baie-Comeau and perhaps Gaspé be grouped in a Pilotage District and that all persons performing local pilotage be required to obtain a licence to ensure their qualifications in the interest of the safety of navigation (The Federation of the St. Lawrence River Pilots Recommendation No. 19) (p. 85). The Federation argued that since these pilots are being employed by third parties, i.e., Masters who have no means of ascertaining their competency, it is the responsibility of the State to make sure that those who offer their services as pilots are well qualified.

In keeping with its other recommendation that all pilots should be free entrepreneurs, the Federation opposes the practice in certain harbours of the pilots being regular employees of local industries. It claims that there would be abuses because in certain places pilotage earnings might greatly exceed the pilots' salary. To finance the proposed District, they suggested that the pilotage revenues of a very active harbour could help to support the pilotage service in a harbour where there is less traffic, and that a pilot could increase his income by serving adjacent harbours.

The local industries reacted to the Federation's recommendation by submitting a Brief (Ex. 923) through the Lower St. Lawrence and Gulf Development Association. They pointed out that the present organization was working well and meeting all requirements, and opposed the establishment of the proposed Pilotage District as unwarranted by the facts and undesirable in Baie-Comeau, Port-Cartier, Sept-Iles and Havre St-Pierre (for details about this Brief, vide pp. 109-110).

Since these ports do not form part of any Pilotage District there is no special pilotage legislation governing their local services. However, the provisions of the Canada Shipping Act that apply to pilotage and pilots in general (Part I, pp. 21 and ff.) and the provisions of the Quebec Civil Code regarding the privilege, rank and lien of the pilot's claim (Part I, p. 67) apply. Furthermore, the terms of the pilotage contract arrived at between the ship and the pilot, or the pilot's employer, are the law of the parties and binding upon them unless they conflict with the general provisions of the

Canada Shipping Act or those provisions of the Quebec Civil Code applying to civil contracts deemed to be of public interest which the parties can not modify.

The harbours of Forestville and Rimouski are still contained in the Pilotage District of Quebec (p. 8) but there is very little demand for pilotage at these ports and there is little need for any since most of the new ships calling there are regular traders, well acquainted with the physical features and navigational peculiarities of the ports and their approaches. The few requirements are met by local unlicensed pilots, a practice condoned by the Quebec pilots and the Quebec Pilotage Authority (p. 119). Maritime traffic consists mostly of small local traders (vide Table pp. 150-151). For traffic in Gaspé, see Part III, p. 507.

East of the Quebec District the only ports of importance on the St. Lawrence River where pilotage services are provided, all situated on the north shore, are Baie-Comeau, Port-Cartier, Sept-Iles and Havre St-Pierre which are studied in the following four subsections.

## Subsection I

BAIE-COMEAU



## BAIE-COMEAU

The port of Baie-Comeau, situated on the north shore of the St. Lawrence River 70 miles northeast of Les Escoumins pilot station, was proclaimed a public harbour on April 19, 1962 (P.C. 1962-595). It consists of the navigable waters of English Bay with a width of four miles at the entrance. The western part of the harbour, where the town of Baie-Comeau is situated, is a shoal and is not navigable, leaving a deep water entrance two miles three cables wide to the three berthing areas east of the town on the northeast shore of the bay. It is a Port of Entry. It ranks second in importance among the Lower St. Lawrence ports after Sept-Iles.

The head of the bay where the berthing facilities are situated is sheltered except against heavy seas created by easterly winds. Hence, berths have to be protected. On account of the depth of water, ships can not anchor in the bay except off the western shore near the shoal which is protected from all but easterly winds. The approach to the wharves is through the unobstructed waters of the bay with a minimum depth of 10 fathoms (Ex. 291). Currents and tides create no problems and there is no river emptying into the bay. Spring tides rise 13 to 15 feet and neap tides 9½ feet.

There are three wharf sites situated some distance apart, mostly serving the needs of each of the local major industries:

- (a) About three-quarters of a mile east of the town is situated the inverted F-shaped Department of Transport wharf, 2150 feet long, part of which is leased to, and operated by, the Quebec North Shore Paper Company for shipping pulp and paper products. A 415-foot spur wharf extends northward on the north side of the main wharf and at the inner end in an area of reclaimed land there is a 500-foot loading wharf with 21 feet of water. The reported depth at the main wharf is 26 feet at low water and alongside the spur wharf 20 feet. It is the only publicly owned wharf in the harbour. It provides berthing accommodation for the ferry serving Baie-Comeau and Rimouski and for other vessels handling cargo for the local population. The berthing accommodation situated inside the main wharf, which faces the bay and serves as a protective jetty, is of easy access. The entrance to the wharves is indicated by a light situated at the outer end of the main wharf. A fog signal, privately maintained, is sounded at the light. Within the area sheltered by the DOT wharf, on reclaimed land, is the Quebec Hydro wharf, part of which is also used by Quebec North Shore Paper Company for loading pulpwood. It provides a minimum of 25 feet alongside.
- (b) One mile further east at Anse-du-Moulin is situated the smelter plant of the Canadian British Aluminum Company Limited and its

private wharves which are oriented to provide shelter. There are three berths, 537, 587 and 551 feet long with 29 feet of water alongside. The access from deep water to the berthing facilities is facilitated by a set of range lights and a whistle-buoy provided and maintained by the company.

- (c) Close northward of Anse-du-Moulin are the Cargill Grain Company Limited grain storage and transshipment facilities consisting of a thirteen-million bushel elevator, four storage tanks and wharves. The eastern pier, 696 feet long, is a breakwater wharf whose inner side is used for discharging grain. The western pier is 585 feet long and berths ships on both sides for loading grain. There is a least depth of 29 feet alongside the eastern pier and 37 feet alongside the western pier. Two sets of leading lights, privately owned and maintained, lead toward the head of the bay and into the Cargill Terminal.

Since 1960, any pilotage service required in the harbour has been provided by two Docking Masters, employees of the Cargill Company, who attend to all berthing and unberthing at the Cargill terminals.

The Cargill Company has made it a condition for the use of its berthing facilities that vessels employ Docking Masters and be assisted by the tugs made available through an arrangement it concluded with Foundation Maritime Limited:

- (a) to provide protection for the considerable investment in machinery and equipment on their wharves;
- (b) to achieve maximum use of its facilities during the somewhat restricted season, since the St. Lawrence Seaway on which it depends for its grain supply closes in the winter months. It is imperative that during the Seaway navigation season both loading and unloading vessels are despatched from their berths in the shortest possible time.

Pilotage is not mandatory at the other wharves of the port. The major part of the Quebec North Shore Paper Company shipping is handled by ships which make several trips annually and whose Masters are familiar with the port and berthing facilities. While the majority of Masters berth and unberth their own ships, occasionally an unfamiliar Master will ask for local assistance. When the company commenced full operation in the spring of 1958, no tug service or pilots were available. In some cases, the company's personnel with maritime experience provided assistance; in very isolated cases, other individuals were privately employed. Pilotage services are now provided by the Cargill Company's Docking Masters who are placed at the disposal of shipping at the same \$50 fee for berthing or unberthing at the other wharves. Except for the Cargill wharves, only the non-regular traders employ a pilot.

All concerned have testified to the excellent service provided by the two Cargill Docking Masters. Except for one or two very slight minor incidents due to striking a wharf, there has been no shipping casualty, with or without a pilot, at Baie-Comeau.

The table hereunder shows the maritime traffic of ships over 250 NRT and the amount of cargo handled by them for the period 1958-1967 (Ex. 1483).

Year	Ships			Cargo Handled	
	No.	Aggregate NRT	Average NRT	Foreign	Coastwise
1958.....	890	595,114	668.6	359,330	135,652
1959.....	827	628,318	759.8	291,168	255,137
1960.....	912	1,210,075	1,326.8	1,136,902	537,538
1961.....	948	1,986,903	2,095.9	2,655,505	769,286
1962.....	1,253	3,243,952	2,588.9	3,047,825	943,551
1963.....	1,567	4,791,277	3,057.6	4,928,360	1,625,171
1964.....	1,463	5,280,799	3,609.5	5,503,451	2,802,109
1965.....	1,471	5,471,118	3,719.3	6,039,935	2,395,274
1966.....	1,254	5,215,479	4,159.1	5,757,074	2,669,298
1967.....	622	2,563,085	4,120.7	2,743,924	1,734,998

In order that these statistics may bear a closer relation to the pilotage service, it is necessary to reduce them by the number of arrivals per year and the aggregate tonnage of the ferry operating between Baie-Comeau and Pointe-au-Père. Formerly, the ferry vessel was M.V. *Père Nouvel* (2,474 NRT). On December 10, 1967, she was replaced by M.V. *Manic* (1,329 NRT). Since then, the former once-a-day service has been replaced by twice-a-day service, except during the period June-September when service is provided three times a day. The cargo figures are affected only slightly. Of the remaining vessels, 325 (2,416,611 aggregate NRT) called at Cargill berths, 227 (343,370 aggregate NRT) at Canadian British Aluminum berths and 93 (334,114 aggregate NRT) at Quebec North Shore berths. Of those which called at berths other than Cargill's where pilotage is mandatory, 105 employed Cargill pilots.

The foregoing table shows the considerable expansion at Baie-Comeau since 1958, mainly due to grain transshipment operations at the Cargill elevators. The effect of the opening of the Seaway on the average size of ships is also noticeable: from 668.6 NRT in 1958 to 4,120.7 NRT in 1967 as the maximum size Great Lakes vessels gradually replaced other inland grain carriers and large ocean-going vessels called at the port for grain.



The 50 per cent decrease in traffic registered in 1967 was due especially to lower world wheat sales and to a lesser extent by a Great Lakes shipping strike followed by the strike of the elevator operators at the Lakehead.

Ships operating to and from Baie-Comeau comprise those engaged in international ocean traffic and Great Lakes and coastwise trade. There are also a decreasing number of schooners and small local craft. Great Lakes traffic, consisting mostly of large bulk carriers, is restricted to the period between the annual opening and closing of the St. Lawrence Seaway. The highest concentration of traffic is during the summer months but there is some traffic regularly throughout the winter months because the port is open the year round.

The incidence of schooners and other small craft and their gradual disappearance is apparent when the above statistics are compared with the regular D.B.S. statistics which show all arrivals except naval or fishing vessels and craft of less than 15 NRT. These statistics indicate, for instance, that, in 1962, there were 1707 arrivals including 454 such small vessels, i.e., 26.6% of the total traffic. By contrast, in 1966, the total traffic amounted to 1351 vessels of which 97 were such small vessels or 7.7% of the total traffic. In the low year of 1967, the total traffic amounted to 715 vessels, 93 of which were small craft accounting for 13% of the total traffic.

The fact that the harbour of Baie-Comeau mostly serves the needs of the three local industries is apparent from the *cargo handled* statistics. For instance, in 1966, the commodities which can be clearly identified as pertaining to these three industries account for most of the imports and exports as shown in actual figures and percentages in the following table. The item *Other* consists mostly of commodities and products shipped from or to these three industries, such as fuel, machinery, coke, iron and steel scrap.

The Cargill pilots are regular employees of the company in a dual capacity, first, on agency work for the company and, second, for berthing, unberthing and handling ships approaching or leaving their wharves. When choosing these men, the company is guided by their experience in maritime operations, knowledge of the wharves and their approaches and experience in shiphandling. The possession of a given Certificate of Competency is not a necessary requirement, but the qualifications and experience asked for imply the possession of an advanced Certificate. In fact, both possess a Master's Certificate, one Foreign-going and the other Inland Waters.

In their dual capacity the pilots are employed on an annual basis at a fixed salary paid in regular monthly instalments regardless of the number of ships they pilot. They enjoy the same status and privileges as the other company employees. They are granted two weeks' vacation a year, participate in the company's pension scheme after five years of employment, share in group insurance and qualify for benefits for Workmen's Compensation.

## NUMBER OF CARGO TONS HANDLED AT BAIE-COMEAU DURING 1966

Cargo	Exports			Imports			Total		
	Foreign-going		Coastwise	Foreign-going		Coastwise	Exports		Imports
	number of tons	% of total	number of tons	number of tons	% of total	number of tons	number of tons	% of total	number of tons
Grains.....	3,395,126	86.3	—	1,376,503	75.3	2,007,205	3,395,126	80.6	3,383,708
Newsprint.....	318,412	8.1	—	—	—	—	318,412	7.6	—
Alumina and bauxite ores.....	—	—	—	202,214	11.1	—	—	—	202,214
Pulpwood.....	149,464	3.8	240,200	—	—	—	389,664	9.2	—
Other.....	3,863,002	98.2	240,200	1,578,717	86.4	2,007,205	4,103,202	97.4	3,585,922
	67,557	1.8	37,253	247,798	13.6	384,640	104,810	2.6	632,438
Total.....	3,930,559	100.0	277,453	1,826,515	100.0	2,391,845	4,208,012	100.0	4,218,360

SOURCE: Ex. 15 (1966, Parts II and III).

## SUMMARY OF EXPORTS AND IMPORTS HANDLED AT BAIE-COMEAU DURING 1966

Type of Shipping	Exports			Imports			Total			Grand Total		
	Foreign-going		Coastwise	Foreign-going		Coastwise	Exports		Imports	Exports		Imports
	number of tons	% of total	number of tons	number of tons	% of total	number of tons	number of tons	% of total	number of tons	Type of trade	number of tons	% of total
Foreign-going.....	3,930,559	93.4	—	1,826,515	43.3	—	5,757,074	68.3	—	Exports.....	4,208,012	49.9
Coastwise.....	277,453	6.6	2,391,845	2,391,845	56.7	—	2,669,298	31.7	—	Imports.....	4,218,360	50.1
Total.....	4,208,012	100.0	—	4,218,360	100.0	—	8,426,372	100.0	—	Total.....	8,426,372	100.0

There are no pilot vessels exclusively used to transport the pilots to and from ships. When berthing or unberthing is at a Cargill berth, a tug is used; on other occasions, a small open undecked 38-foot work boat, which also may assist the operation of berthing and unberthing, serves as a pilot vessel.

The pilots embark inward bound ships off Pointe St-Pancrace, i.e., outside the harbour limits, about one and a half miles from the wharves. On departure, they usually disembark into the tug or work boat shortly after clearing the wharf, since navigation thereafter is on a straight course through wide, deep, unobstructed waters. When ships have to wait for a berth, they may anchor in the southwest part of the bay at the edge of the shoal where they are boarded by the pilot when a berth is available.

An inbound trip from the time the pilot leaves the wharf on board the tug to the time the ship is berthed takes one hour on the average; in the case of an outbound ship, it takes the pilot half to three-quarters of an hour to unberth, turn around, disembark and return to the wharf.

Two pilots are necessary to ensure the continuity and availability of the service.

Most of the pilotage work is done by one pilot, the other confining himself to agency duties but helping out as occasion demands, i.e., when the other pilot is not available because of other pilotage duties or for any other reason such as illness.

The Cargill Company does not accept any responsibility for the possible wrongdoing of its pilots. The contract that has to be signed to obtain their services contains a release clause to that effect and stipulates that when so employed the Docking Master is, for that purpose, a servant of the ship. The contract also contains a clause relieving the pilot of all liability for his negligence or wrongdoing. While the validity of the latter clause is doubtful, the pilot's liability can not exceed \$300 as provided by subsec. 362(2) C.S.A. which applies to all pilots whether licensed or not (Part I, p. 34). Despite the waiver clauses, it is an implied contractual guarantee on the part of the Cargill Company that their Docking Masters possess the necessary qualifications.

Cargill submitted that private industry can furnish Docking Masters' services at less cost than could be provided by a Pilotage District. The Docking Masters form an integral part of the port operations, and the fees derived from their employment are only a partial offset of all the port services provided. The company added that, if Docking Masters' fees were negated, the lost revenue would of necessity have to be reflected in resultant higher port charges to vessels, thus reducing the economic advantage of the port.





## Subsection II

### PORT-CARTIER

## PORT-CARTIER

Port-Cartier is a private harbour with ample berthing facilities built by the Québec Cartier Mining Company to accommodate ships transporting iron ore concentrates from the company's Lac Jeannine mines with which it is connected by a 191-mile private railroad. It is situated on the north shore of the St. Lawrence River, three miles east of the municipality of Port-Cartier-Ouest, formerly Shelter Bay, 150 miles east of Les Escoumins and 20 miles west of Sept-Iles.

The man-made harbour is cut out of sheer rock and forms a large basin with an entrance on the St. Lawrence River. The specially designed breakwaters and beaches cut off or reduce swell action, thus providing safe, protected berths for shipping.

The harbour was completed for use in July 1961, and is operative all year round. An air-bubble system is laid on the bottom to prevent ice from forming and is reported to work satisfactorily.

The half-mile approach channel is dredged to 40 feet normal low tide; the harbour has a depth of 50 feet with rock bottom. Tides rise 11 feet at springs; 7 feet at neaps. The entrance is 500 feet wide and the harbour or basin, at an acute angle with the entrance, is 400 feet wide by 2,500 feet long.

There is no anchorage off the harbour. A fair anchorage tenable only in fine weather is located three miles west; otherwise, large vessels must seek shelter in Baie des Sept-Iles.

The approach is equipped with every necessary aid to navigation, all except the fairway buoy privately owned and operated.

The entrance channel is indicated by a DOT fairway buoy situated one mile three cables off shore. The sides of the entrance to the harbour are marked by two fixed lights, one at the end of the jetty and the other on a caisson. Leading lights, and also a radio beacon located in front of the leading light, guide vessels through the centre of the entrance channel. A fog signal located at the east entrance light is sounded during thick weather or upon request. These aids to navigation were reported as being adequate and satisfactory.

The berth and port facilities have been arranged to ensure maximum efficiency in loading iron ore and ore concentrates and unloading general cargo for the harbour, the company mine at Lac Jeannine and the nearby town of Gagnon where most of the employees of the mining area live.

The 2,500-foot north wall is reserved for loading ore. The east section, 1,500 feet long, is berth No. 4, the standby berth before loading ore. Berth No. 1 is the ore loading berth and occupies the west 1,000 feet. The south wall, 1,480 feet, is also divided into two berths: berth No. 2, the west 1,000



feet, is the oil wharf and berth No. 3, which occupies the remaining 480 feet, is the general cargo wharf. Most berths have bunkering lines for diesel oil and bunker oil and fresh water lines.

Until recently, the port facilities were used exclusively to meet the import and export needs of the company and occasionally to accommodate vessels requiring oil or water. During the last few years, the south wall berths have been used by the Louis Dreyfus Corporation which operates a grain elevator. Berth No. 2 serves as the receiving berth and berth No. 3 the shipping berth.

Ships calling at Port-Cartier are mostly large bulk carriers, both lakers and ocean-going vessels, and a number of small vessels, schooners and inland local traders which carry general cargo.

The following table shows the extent of maritime traffic of ships over 250 NRT and the amount of cargo handled by them for the period 1959-1967 (Ex. 1483):

Year	Ships			Cargo Handled	
	No.	Aggregate NRT	Average NRT	Foreign	Coastwise
1959.....	50	55,118	1,102.4	85,449	21,919
1960.....	59	119,572	2,026.6	95,499	57,384
1961.....	54	364,732	6,754.3	1,338,954	17,469
1962.....	183	1,165,718	6,370.0	5,186,421	22,911
1963.....	249	2,011,394	8,077.9	7,166,939	65,889
1964.....	353	3,096,080	8,770.8	10,203,993	20,538
1965.....	357	3,035,807	8,503.7	9,161,929	192,241
1966.....	419	3,666,032	8,749.5	9,390,613	80,818
1967.....	435	3,765,197	8,655.6	9,293,446	248,639

The following table clearly indicates the maritime traffic pattern. Total exports of iron ore and ore concentrates account for 97.9 per cent of the total cargo handled (import and export) of which only 0.5 per cent is shipped in coastwise vessels. The next product in importance is imported fuel oil which comes exclusively in foreign ships. Part of this is exported, probably as bunkers for ships calling at the port. The rest of the cargo handled accounts for a fraction of one per cent but comprises various items, e.g., explosives, metallic salts, gasoline, pipes, tubes, machinery equipment, all carried in coastwise vessels. Hence, the maritime traffic is composed of large ore carriers, both ocean-going vessels and lakers but bound to American lake ports

## NUMBER OF CARGO TONS HANDLED AT PORT-CARTIER DURING 1966

Cargo	Exports				Imports				Total	
	Foreign-going		Coastwise		Foreign-going		Coastwise		Exports	Imports
	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total
Iron ore and concentrates.....	9,222,917	100.0	45,350	64.6	—	—	—	—	9,268,267	99.7
Fuel oil.....	—	—	24,736	35.2	167,539	99.9	—	—	24,736	0.3
									167,539	94.0
Other.....	9,222,917	100.0	70,086	99.8	167,539	99.9	—	—	9,293,003	100.0
	—	—	143	0.2	157	0.1	10,589	100.0	143	0.0
									10,746	6.0
Total.....	9,222,917	100.0	70,229	100.0	167,696	100.0	10,589	100.0	9,293,146	100.0

SOURCE: Ex. 15 (1966, Parts II and III).

## SUMMARY OF EXPORTS AND IMPORTS HANDLED AT PORT-CARTIER DURING 1966

Type of Shipping	Exports		Imports		Total		Grand Total		
	tons	% of total	tons	% of total	tons	% of total	Type of trade	tons	% of total
Foreign-going.....	9,222,917	99.2	167,696	94.1	9,390,613	99.1	Exports.....	9,293,146	98.1
Coastwise.....	70,229	0.8	10,589	5.9	80,818	0.9	Imports.....	178,285	1.9
Total.....	9,293,146	100.0	178,285	100.0	9,471,431	100.0	Total.....	9,471,431	100.0

(hence entered in the cargo handled statistics as foreign) and large tankers. On the other hand, general cargo is handled by small coastwise vessels.

The difference in size between the two groups of vessels is considerable as indicated in this table which shows for the years 1962, 1963 and 1964 the number of ships, including those under 250 NRT over and under 300 feet in length and the average net tonnage per ship of each groups.

Year	Ships Over 300 Feet		Ships Under 300 Feet	
	Number	Average NRT	Number	Average NRT
1962.....	124	9,285.5	62	277.6
1963.....	220	8,897.6	nil	—
1964.....	346	9,043.9	104	249.5

The wheat operations of the Louis Dreyfus Corporation which began in 1967 will not change the shipping pattern since imports and exports in grain are handled by bulk cargo vessels, i.e., large lakers for imports and ocean-going vessels for exports.

The approach to the harbour offers no special navigational difficulties. It runs through unobstructed deep water to the entrance of the dredged approach channel where, as well as in the basin itself, the course is well marked by adequate aids to navigation and no current or cross current is encountered. The only factors to be contended with are the wind and, in the case of large vessels, the cramped nature of the basin compounded by the fact that it lies at an acute angle with the entrance channel. It is for this reason, and also to expedite ship movements in the harbour in order to provide maximum efficiency in the loading of ore while affording protection to its installations, that the company exercises full control over all arrivals, departures and movements inside the harbour, and in the case of vessels over 300 feet in length, makes the use of the port facilities contingent on employing its Docking Masters and using its tugs.

To facilitate and programme port operations, vessels are required to give ETA's 72 hours, 48 hours and 24 hours before arrival, and any change of more than one hour after transmission of the 24-hour ETA is to be corrected immediately. The first ETA should indicate the tonnage of cargo required and the 24-hour ETA should mention the estimated time for pumping ballast after arriving alongside. In addition, all ships are to request berthing instructions 4 hours before arrival. The use of the standby berth is mandatory for all



ore carriers. Radio communications are established with the port *via* the Sept-Iles coast station. The company operates its own VHF station for short range communications.

There is no separate pilotage fee for ships over 300 feet in length. The flat charge of \$850 (originally \$650) per voyage covers agency fee, pilotage, tug service (one tug), line handling, fresh water, customs and immigration, port medical officer fees and charges and crew mail service. There is an additional fee of \$250 for the use of a second tug. With regard to pilotage, the fee includes inward and outward trips and all movages.

Occasionally, a ship under 300 feet in length may ask for the assistance of a pilot. For instance, during the period 1962-1964, this occurred in 1962 only when two such ships were piloted in and out and one ship piloted in only. In such a case, the charge is broken down according to the services rendered. The charges in 1962 was \$8.40 per hour for the pilot and \$40 per hour for the tug.

The company's contract contains the same waiver clauses as to responsibility of the company and the pilot for damages caused by the pilot's error or negligence, and makes the pilot a servant of the ship. The comments regarding a similar clause in the Cargill contract apply here (p. 535).

The pilotage service is provided by two pilots who are employed by the company. As at Baie-Comeau, they are referred to as Docking Masters and are chosen for their experience in maritime operations and handling ships. Both pilots hold a Master's Foreign-going Certificate of Competency. They receive an annual salary and, in addition, enjoy the benefits provided other company employees. They are entitled to two weeks' paid vacation after one year of service, three weeks after two years' service and four weeks after four years'. They participate in the group insurance programme, which includes certain life insurance benefits as well as health services, in the contributory pension plan and a savings fund plan to which the company contributes. They are also entitled to 10 weeks' sick leave with pay after one year of service, which could increase up to 39 weeks depending upon the length of service with the company (Ex. 923(e)).

Since the opening of the harbour there has been no shipping casualty. The small ships have had no particular mishap while berthing and unberthing, although generally speaking they use the services of neither tugs nor Docking Masters.

There are no pilot vessels. The pilot boards an incoming ship from a tug at the fairway buoy, and disembarks from an outgoing ship in the same area and returns to port in the tug.

The larger vessels, some 730 feet in length and over, are generally turned with the aid of tugs and enter the harbour stern first. The pilot normally takes complete charge of this operation and gives all manoeuvring orders.

To bring a large ship in and complete berthing takes about one hour and a quarter to one hour and a half, and for smaller ships about 40 minutes. Much shorter time is taken for departures depending on prevailing weather conditions. Vessels arrive and depart approximately half by day and half at night.

Pilot R. F. Pilcher stated in his evidence that the particular structure of a ship, such as a bridge forward, amidships or aft, does not increase the difficulties of navigation, and that shiphandling is a matter of experience with different types.





### **Subsection III**

#### **SEPT-ILES**

## SEPT-ILES

Sept-Iles, situated on the north shore of the St. Lawrence River, 20 miles east of Port-Cartier and 170 miles east of Les Escoumins, was proclaimed a public harbour on June 8, 1961 (P.C. 1961-824). It is a Port of Entry and the leading port of the region. It comprises Baie des Sept-Iles, a sheltered six-mile circular basin with three miles of deep water. The three-mile seaward limit is a line from headland to headland, i.e., from Pointe au Corbeau on the west to Pointe aux Basques on the east. It is practically landlocked being sheltered from seaward by seven small islands.

The harbour contains two widely separated areas with berths situated near the entrance on each side of the bay where deep water is closer to the shore. The berthing area on the east side is where the city of Sept-Iles is located. That part of the harbour serves for shipping iron ore from the Iron Ore Company of Canada mines with which it is connected by a public railway especially built for that purpose, and importing fuel and general cargo for the needs of the Iron Ore Company, the population of Sept-Iles and the community at the mining sites. The berthing area in the west part of the harbour, called Pointe Noire, is the deep water port for the town of Clarke City, nine miles inland on the shallow Ste. Marguerite River, where the mill of the Gulf Pulp and Paper Company is situated and with which it is connected by a private railway. Its main activity now is exporting iron ore from the Wabush Mines Company whose private pier is also connected by the public railway with the mining area inland.

The physical features of the harbour and its approaches are ideal and present no navigational difficulty. There is no need for local knowledge or previous local experience; the brief information provided by the charts and the Sailing Directions is all that is necessary. Pilotage is required only for the benefit of the owners of the ore berths in order to assure maximum efficiency and productivity of the loading equipment by reducing idle time as much as possible and ensuring a quick turn around for ships by employing the companies' specially trained berthing experts. Hence, pilotage here is not a service to shipping but an integral part of the iron ore loading operations.

There are three approach channels through or around the seven islands screening the harbour entrance. The west channel, three quarters of a mile at its narrowest between the mainland and West Rocks Island, is clear and deep. The middle channel is straight, unobstructed, deep, nearly two miles wide at its narrowest and provides direct access to the harbour. The east channel between the mainland and Ile Grande-Basque is secondary, narrow and divided by a middle bank, Basque Reef, which is marked by buoys.

There are no currents or cross-currents in the bay and its approaches, except the limited effect of the tide, and no great body of fresh water flows in.

The bay is well sheltered from the wind and there are good anchorages inside close to both berthing areas.

The port is open to navigation all year round, although during the winter months ice conditions can become severe enough to require icebreakers to assist vessels to and from the wharves.

The three channels are well provided with land based lights which indicate headlands and channel limits. Lights also indicate Basque Reef whose northwest end is marked by a light buoy fitted with radar reflectors.

In addition, the location of the various wharves is indicated by lights and the Iron Ore Company and the Wabush Company own and operate a number of light-beacons and range lights to assist vessels to approach and manoeuvre at their private berths. At the Iron Ore berth, a fog signal, privately maintained, is sounded when required.

Long range ETA's are handled through the Sept-Iles coastal station. Both the Iron Ore Company and the Wabush Company operate a VHF radiotelephone for short range communications to facilitate ships' movements to their private berths.

The approach to the Government wharf provides a minimum of 25 feet at low water; all other berths are approached through deep water. Tides rise 10½ feet springs, 7¼ feet neaps.

There are five deep water wharves, two belonging to the Government operated by the Department of Transport, two to the Iron Ore Company of Canada and one to the Imperial Oil Company. The Government wharves have 600 and 900 feet of berthing space respectively and 23 feet of water at low tide. The loading and berthing wharves of the Iron Ore Company consist of a wall facing the bay and extending over 1,600 feet with 37 feet of water at low tide. East of the present ore loading berth, a new deep water berth is under construction. The new pier is approximately 875 feet long with a dredged minimum depth alongside of 70 feet. It will be capable of accommodating vessels in excess of 150,000 DWT. The Imperial Oil wharf is some 300 feet long and has a depth of 40 feet alongside.

The following table, based on the DBS statistics of ships over 250 NRT, shows the number of ships, their average size and the cargo handled by them segregated by berthing areas (Sept-Iles and Pointe Noire) and for the harbour as a whole. Pointe Noire includes Clarke City.

This table prompts the following remarks:

- (a) The sudden increase in the average NRT at Pointe Noire in 1965 is due to the fact that the Wabush Mines Company wharf began operating; previously, Pointe Noire was used mostly for the export and import needs of the Gulf Pulp and Paper Company and of Clarke City, all general cargo handled by small vessels.
- (b) The trend to fewer but larger vessels is again clearly apparent; while the number of vessels has decreased somewhat since 1958



*Study of Lower St. Lawrence Pilotage*

Year	Ships			Cargo Handled	
	No.	Aggregate NRT	Average NRT	Foreign	Coastwise
1958—Sept-Iles.....	1,234	3,315,368	2,686.7	7,226,793	1,951,120
Pointe Noire.....	324	133,912	413.3	—	1,755
Total harbours.....	1,558	3,449,280	2,214.0	7,226,793	1,952,875
1959—Sept-Iles.....	1,206	5,899,963	4,892.2	12,512,830	2,516,891
Pointe Noire.....	253	120,645	499.8	29,088	2,280
Total harbours.....	1,459	6,020,608	4,126.5	12,541,918	2,519,171
1960—Sept-Iles.....	1,353	4,574,910	3,381.3	10,549,695	956,397
Pointe Noire.....	374	163,844	438.1	30,076	2,089
Total harbours.....	1,727	4,738,754	2,743.9	10,579,771	958,486
1961—Sept-Iles.....	1,172	3,690,997	3,149.3	8,038,682	782,676
Pointe Noire.....	272	147,598	542.6	31,119	3,157
Total harbours.....	1,444	3,838,595	2,658.3	8,069,801	785,833
1962—Sept-Iles.....	1,356	4,766,547	3,515.2	11,864,495	569,502
Pointe Noire.....	116	53,152	458.2	46,589	1,842
Total harbours.....	1,472	4,819,699	3,274.3	11,911,084	571,344
1963—Sept-Iles.....	1,291	5,059,867	3,919.3	12,208,990	374,070
Pointe Noire.....	139	76,834	552.8	29,150	32,785
Total harbours.....	1,430	5,136,701	3,592.1	12,238,140	406,855
1964—Sept-Iles.....	1,436	6,821,614	4,750.4	16,107,206	491,727
Pointe Noire.....	175	133,105	760.6	74,907	53,724
Total harbours.....	1,611	6,954,719	4,317.0	16,182,113	545,451
1965—Sept-Iles.....	1,366	6,752,461	4,943.2	15,779,081	647,244
Pointe Noire.....	227	1,021,169	4,498.5	1,477,054	771,653
Total harbours.....	1,593	7,773,630	4,879.9	17,256,135	1,418,897
1966—Sept-Iles.....	947	6,259,478	6,918.8	14,942,552	505,237
Pointe Noire.....	321	2,058,988	6,414.3	2,566,582	1,933,407
Total harbours.....	1,268	8,318,466	6,560.3	17,509,134	2,438,644
1967—Sept-Iles.....	998	6,906,935	6,920.8	16,528,178	965,843
Pointe Noire.....	312	2,408,152	7,718.4	2,636,825	2,546,390
Total harbours.....	1,310	9,315,087	7,110.8	19,165,003	3,512,233

(although the Wabush Mines Company was not in operation at the time) the aggregate NRT, the average NRT and the total cargo handled have almost tripled. There was a marked increase in the size of ships in 1966 at both berthing areas, indicating that the smaller ore carriers have now disappeared and have been replaced by larger ocean-going ore carriers and by larger bulk carrier lake vessels constructed to take maximum advantage of the Seaway locks.

Here again, the incidence of schooners and small craft and their gradual disappearance are apparent when these statistics are compared with the regular DBS statistics which show all arrivals, except naval and fishing vessels and craft of less than 15 NRT. For instance, these statistics indicate that in 1962 the total number of arrivals was 1710, i.e., there were 238 arrivals of such small vessels, 13.9 per cent of the total traffic. By contrast, in 1967, the total traffic amounted to 1393, 83 of which were small vessels accounting for 6 per cent of the total traffic.

The following table shows, as for the two previous ports, for the year 1966 in actual figures and in percentage the main products imported from and exported to foreign and domestic ports and the total cargo handled.

It is apparent from these tables that maritime traffic at the harbour mainly serves the export and import needs of the two mining companies, and that most of the products handled are bulk cargoes carried in large ore carriers and tankers. Imports from coastwise ports shown in the D.B.S. statistics comprise a variety of general cargo items, handled by smaller inland and coastal ships.

Ore carriers are constantly increasing in size and will continue to grow since a considerable percentage of ore exports are *via* the Atlantic and, therefore, those vessels are not limited in size as are those using the St. Lawrence Seaway. For instance, the Iron Ore Company of Canada's 1964 shipments *via* the St. Lawrence Seaway amounted to 43.8 per cent of its total exports as against 56.2 per cent *via* the ocean routes to American coastal and Gulf of Mexico ports and European ports. Shipments will soon be made to far distant ports, such as in Japan. It is in the expectation of larger, deeper ore carriers that the Iron Ore Company has built its new deep water facilities.

The main traffic plying to and from Sept-Iles consists of the largest bulk carrying lakers, ocean-going bulk carriers, oil tankers, and smaller coastal general cargo vessels and passenger vessels. Since there is a ferry service to Matane, statistics on the arrival of vessels should be adjusted accordingly to be relevant in terms of pilotage.

Pilotage service is provided by the mining companies' Docking Masters. At the Gulf Pulp wharf the company's stevedore foreman also acts as pilot. The use of Docking Masters for the movements of ore carriers to and from the private wharves of the mining companies is made mandatory by a clause in the contract for the use of the companies' berths and loading facilities. Otherwise, pilotage is not compulsory not even for other vessels calling at the

## NUMBER OF CARGO TONS HANDLED AT SEPT-ILES AND POINTE NOIRE DURING 1966

Cargo	Exports				Imports				Total			
	Foreign-going		Coastwise		Foreign-going		Coastwise		Exports		Imports	
	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total
Iron ore and concentrates:												
Sept-Iles.....	14,534,047	85.3	267,472	12.7	—	—	—	—	14,810,519	77.0	—	—
Pointe Noire.....	2,400,904	14.0	1,882,169	86.6	—	—	—	—	4,283,073	22.3	—	—
	16,934,951	99.3	2,158,641	99.3	—	—	—	—	19,093,592	99.3	—	—
Bentonite:												
Sept-Iles.....	—	—	—	—	51,730	11.2	13,875	5.3	—	—	65,605	9.0
Pointe Noire.....	—	—	—	—	27,238	5.9	2,483	0.9	—	—	29,721	4.1
	—	—	—	—	78,968	17.1	16,358	6.2	—	—	95,326	13.1
Pulp:												
Sept-Iles.....	4,835	0.0	—	—	—	—	206	0.1	4,835	0.0	206	0.1
Pointe Noire.....	106,440	0.7	—	—	—	—	—	—	106,440	0.6	—	—
	111,275	0.7	—	—	—	—	206	0.1	111,275	0.6	206	0.1
Fuel oil:												
Sept-Iles.....	—	—	2,776	0.1	349,356	75.5	19,011	7.2	2,776	0.0	368,367	50.7
Pointe Noire.....	—	—	—	—	32,000	6.9	29,774	11.3	—	—	61,774	8.5
	—	—	2,776	0.1	381,356	82.4	48,785	18.5	2,776	0.0	430,141	59.2
Sub-total of cargoes above.....	17,046,226	100.0	2,161,417	99.4	460,324	99.5	65,349	24.8	19,207,643	99.9	525,673	72.4





mining companies' wharves. However, the Docking Masters are made available to assist other vessels at the companies' wharves or at other wharves in the harbour.

When the Iron Ore Company commenced the operation of its port facilities at Sept-Iles in 1954, the responsibility for berthing and unberthing ore carriers was left to the Masters concerned and the company merely made berthing Masters and tugs available to assist on request. After a trial period, it was found that this practice was hampering the company's loading operations, that too much time was being lost by vessels berthing and unberthing without assistance. In order to reduce the idle time of its loading equipment to a minimum, the company made the employment of its Docking Masters and tugs mandatory, a system that has since been adopted by the Wabush Mining Company at Pointe Noire and most other mining companies elsewhere.

All ore carriers calling at the Iron Ore company's loading berth pay an all inclusive fee per voyage (\$665 in 1963) which includes agency service, pilotage service for the inward and outward voyage as well as other manoeuvres in the harbour or alongside, tug service, linesmen and minor expenses. Other vessels are charged a partial fee corresponding to the services they obtain. For instance, in 1963, the rates for inward and outward pilotage were \$50 and \$35, tugs \$125 per movement, linesmen \$50 (Ex. 923(h)). The Iron Ore Company has a number of employees qualified to perform the duties of berthing Masters and when not so engaged they perform other duties for the company; one of them, the Chief Docking Master, is in charge of pilotage operations. In 1963, their number was 5, including the Chief Docking Master.

The mining companies' Docking Masters are chosen on the basis of their experience in, and knowledge of, handling ships and of the companies' wharves and facilities. They are employed on a permanent basis and draw an annual salary in monthly payments. At the Iron Ore Company, in addition to their annual salary, they also receive an annual bonus. The Chief Docking Master receives higher remuneration. They also enjoy all the benefits available to the permanent employees of the company, such as the voluntary pension plan to which the company contributes and the employer-employee contribution plan providing surgical and medical coverage with weekly indemnities and life insurance.

The Iron Ore Company carries liability coverage for all claims that may arise from the Docking Masters' employment.

At the Commission's hearing, witnesses were unable to recall any major shipping casualty at Sept-Iles. Three casualties were reported for the period 1960-1968 but in none of them was there a pilot on board the vessels involved.

The Iron Ore Company's vessel agent stated in his evidence that since pilotage was enforced in 1957 there had been five instances of minor damage, such as slightly dented plating and wharf indents caused by striking the wharf when berthing; also one of the same nature but causing more damage. The latter case involved a tanker that had previously received severe ice damage to her stem. During the course of berthing and contrary to the pilot's advice, a manoeuvre caused the protruding starboard anchor to strike the wharf, forcing the anchor into the shell plating.

Pilots board vessels from the tug sent to provide assistance, for which there is no charge. When tugs are not available during the winter months, the service is provided by local fishermen at \$15 per ship.

The tugs owned by the Foundation Maritime Company of Halifax are chartered to the Iron Ore Company under an annual contract.

The pilots use a portable radiotelephone set with which they maintain continuous contact with the tug and other areas from which a change of orders may come to affect a ship's movements. Continuous communication by this means was considered most satisfactory.

The Harbour Master does not direct maritime traffic to and from the harbour or within the harbour. The mining companies exercise this control by their requirements for the use of their berthing facilities.

The time taken by a pilot to berth or unberth or move a vessel in the confined area of Sept-Iles seldom exceeds an hour, depending on the size of the vessel and the prevailing weather conditions.

According to the traffic records of the Iron Ore Company in 1964, 721 ore vessels, as well as 27 other vessels of different class, were piloted in and out by the company's Docking Masters. The months of June and July are the most active: then ship movements take place day and night.

The Iron Ore pilots maintain a 24-hour service on a two-shift basis; their assignments are arranged by the Chief Pilot.





## Subsection IV

HAVRE ST-PIERRE

## HAVRE ST-PIERRE

Havre St-Pierre (also referred to as Eskimo Harbour) is situated on the north shore of the River St. Lawrence at the eastern end of the Mingan Islands group, off Anticosti Island 257 miles east of Les Escoumins and 23 miles west of the official eastern boundary of the River (subsec 2(41) C.S.A.). It has not yet been declared a public harbour under sec. 600 C.S.A. For many years it was nothing more than a small fishing port but in 1950 developed into a loading port for the Quebec Iron and Titanium Corporation which operates an ilmenite mine at Lake Tito, 27 miles inland and connected by a railroad owned and operated by the mining company.

There is no organized regular pilotage service nor any towing facilities, and none is considered necessary. When a Master wishes to obtain local assistance, the Quebec Iron and Titanium Corporation Dock Superintendent, who holds a Chief Mate's Certificate of Competency and has the necessary experience, is made available. It is reported that he tried to obtain a pilot's licence from the Department of Transport but this could not be done since the port is not within a Pilotage District (Part I, p. 40). Requests for such assistance are very seldom made because the approach channel and the harbour present no navigational difficulties and are well equipped with shore-based aids to navigation.

Havre St-Pierre is a natural harbour formed by the channel between Eskimo Island and Eskimo Point on the mainland where the berthing facilities are located. It is well sheltered from the open sea by a series of islands which provide several well defined deep water approach channels. The shortest and best approach is Walrus Channel between Walrus Island and Green Island; it is seven cables wide with eight fathoms of water at low tide. Its entrance is indicated by a light on the southern end of Walrus Island where a fog signal is also located. Leading lights erected on the mainland guide vessels through the channel. Spring tides rise 7 feet and neaps 4½ feet. There are very few tidal currents; however, during westerly winds they may attain a rate of two knots.

The harbour is wide and deep and provides good anchorage. The only two wharves are situated on the mainland at Eskimo Point. The Government wharf is 450 feet long with a least depth of 27 feet. The ore loading wharf belonging to the Iron and Titanium Corporation lies one cable west of the Government wharf. It faces the stream and has a length of 140 feet with flanking dolphins extending eastward and westward making an overall length of 600 feet with a depth alongside of 30 feet at low tide.

Ships calling at Havre St-Pierre are mostly coastal and inland vessels, small fishing schooners, medium size coastal freight and passenger vessels and large bulk ore carriers which transport titanium to Sorel and, since 1967, on



a much smaller scale to foreign ports. Hence, except for the ore carriers, practically all the vessels calling at Havre St-Pierre are coastal and inland vessels, generally regular traders of small and medium size.

The following figures provided by the Dominion Bureau of Statistics show the total number of vessels of 250 NRT and over that called at Havre St-Pierre from 1958 to 1967, together with their aggregate NRT and their average NRT; they indicate also the extent of cargo handled whose original destination is foreign or domestic (coastwise).

Year	Ships			Cargo Handled	
	No.	Aggregate NRT	Average NRT	Foreign	Coastwise
1958.....	192	254,906	1,327.6	—	434,782
1959.....	151	306,709	2,031.2	—	682,308
1960.....	225	484,603	2,153.8	—	1,008,771
1961.....	243	575,692	2,369.1	—	1,196,284
1962.....	275	413,705	1,504.4	1,670	810,351
1963.....	234	462,021	1,974.4	—	823,184
1964.....	240	670,183	2,792.4	—	1,371,526
1965.....	190	682,323	3,591.2	—	1,442,589
1966.....	157	532,476	3,391.6	2,973	1,010,590
1967.....	185	894,483	4,835.0	27,432	1,777,193

The following comparative table shows in actual figures and percentages the type and extent of cargo handled. Exports are exclusively the mining company's product, titanium ore which, up to 1967, was shipped entirely to the company's plant at Sorel. Imports, except fuel, consist of a large number of items of general cargo, all from Canadian ports and carried by the regular small coastal traders. The locality is isolated by land because there is no road connection with the other communities westward. Hence, there is a regular passenger service by ship from Montreal and Quebec and by air.

Since the ore carriers are regular traders (the same vessels shuttle regularly during the navigation season between Havre St-Pierre and Sorel), the Masters and officers are quite familiar with the physical features of the harbour and its approaches.

## NUMBER OF CARGO TONS HANDLED AT HAVRE ST-PIERRE DURING 1967

Cargo	Exports						Imports						Total			
	Foreign-going			Coastwise			Foreign-going			Coastwise			Exports		Imports	
	tons		% of total	tons		% of total	tons		% of total	tons		% of total	tons		% of total	
	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	% of total
Titanium ore.....	27,432	100.0	1,761,155	100.0	—	—	—	—	—	—	—	—	1,788,587	100.0	—	—
Fuel oil.....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	6,133	39.7
Other.....	27,432	100.0	1,761,155	100.0	584	0.0	—	—	—	—	—	—	1,788,587	100.0	6,133	39.7
	—	—	—	—	—	—	—	—	—	—	—	—	584	0.0	9,321	60.3
Total.....	27,432	100.0	1,761,739	100.0	—	—	—	—	—	—	—	—	1,789,171	100.0	15,454	100.0

SOURCE: Ex. 15 (1967, Parts II and III).

## SUMMARY OF EXPORTS AND IMPORTS HANDLED AT HAVRE ST-PIERRE DURING 1967

Type of Shipping	Exports			Imports			Total			Grand Total		
	tons		% of total	tons		% of total	tons		% of total	Type of trade		% of total
	tons		% of total	tons		% of total	tons		% of total	Exports.....		tons
	tons	% of total	tons	% of total	tons	% of total	tons	% of total	tons	Imports.....	tons	% of total
Foreign-going.....	27,432	1.5	—	—	—	—	27,432	1.5	1.5	Exports.....	1,789,171	99.1
Coastwise.....	1,761,739	98.5	15,454	100.0	1,777,193	98.5	1,777,193	98.5	98.5	Imports.....	15,454	0.9
Total.....	1,789,171	100.0	15,454	100.0	1,804,625	100.0	1,804,625	100.0	100.0	Total.....	1,804,625	100.0

Captain J. A. G. Rousseau, a licensed pilot for the District of Quebec, had many opportunities to call at Havre St-Pierre as Master of his own ship before he became a pilot. Although the approach was then more difficult since there were no land based aids to navigation and no leading lights, he never had a mishap because he proceeded cautiously. After a number of trips, he became familiar with the area.

There is no record of any shipping casualty.





## Section Three

PILOTAGE DISTRICT OF MONTREAL





## Chapter A

# LEGISLATION

## 1. LAW AND REGULATIONS

### PREAMBLE

Pilotage in the Montreal District is provided by two officially separate groups of pilots, each with its own special organization, and the harbour of Montreal (as defined in the District By-laws for pilotage purposes) is joint territory over which each group has a specific type of jurisdiction:

- (a) the harbour pilots who attend exclusively to movements wholly within the harbour of Montreal;
- (b) the river pilots whose function is to attend to pilotage trips and all other pilotage requirements.

In addition, the District is divided unofficially into two sectors for river pilotage, the division point being Trois-Rivières. This division is not defined in legislation, except indirectly in the tariff, and is effected in practice by changing pilots at Trois-Rivières. The river pilots are divided into two distinct groups: Montreal-Trois-Rivières and Trois-Rivières-Quebec.

There is great similarity in the organization and institutions of the Districts of Quebec and Montreal (river pilots) reflecting their joint geographical and comparable physical features as well as their common legislative background. Since the foundation of the colony, pilotage in that part of the St. Lawrence River which is served by these two contiguous Districts has always come under the same legislative authority. Since in both the service is river pilotage they were confronted with a unique situation compared to other areas with the result that unique, *ad hoc* institutions developed. Both Districts followed a similar legislative evolution and the only marked difference was that the Montreal pilots as a group were never legally entrusted with the responsibility for providing and directing the service or given the right to control the exercise of their profession. Legally speaking, their status has always been that of free entrepreneurs in a free profession but, in practice, they have been *de facto* employees for the last hundred years, first of their own Association and later of their Pilotage Authority.

The Montreal harbour pilots' group was created in 1957 to meet a special situation that had developed and was accentuated after the Seaway opened, i.e., a substantial and ever increasing number of ship movements performed wholly within the harbour of Montreal and increasing reluctance on the part of the river pilots to remain available in Montreal to perform these movements. Since this was a new service, traditional factors were less restrictive and a more realistic organization could be drawn up to meet modern demands.

Like the Pilotage District of Quebec, the Pilotage District of Montreal still enjoys (to a limited extent) a special status as far as the law is concerned in that it is subject to certain special statutory provisions and is excluded from the application of others. The general remarks made in this connection regarding the District of Quebec (p. 7) apply here *mutatis mutandis*.

The statutory provisions that apply specifically to the Pilotage District of Montreal, together with the special legislation contained in various regulations, are studied hereunder.

(1) SPECIAL PROVISIONS OF THE CANADA SHIPPING ACT AND ORDERS  
MADE BY THE GOVERNOR IN COUNCIL PURSUANT TO  
THE CANADA SHIPPING ACT

(a) *Creation of the District*

The creation of the Montreal Pilotage District as a federal Pilotage District dates from the first Pilotage Act passed in 1873 (sec. 6) which recognized and confirmed its existence as a separate District, as does the present statute (C.S.A. sec. 323 and ff.). It can not be abolished except by an Act of Parliament since sec. 324 specifically deprives the Governor in Council of the power to rescind it (Part 1, p. 57, and Gen. Recs. 8 and 17).

(b) *District Limits*

Sec. 323 C.S.A. defines its limits as follows:

"... that part of the River St. Lawrence from the eastern end of the Lachine Canal to the eastern limit of the harbour of Quebec together with those parts of all rivers, waters, harbours, creeks, bays and coves within the said limits."

The eastern limit presents the same problem as the western limit of the District of Quebec in that the definition is not self-contained and, to ascertain it, it is necessary to refer to the National Harbours Board Act. This question and the extent of jurisdiction of the Pilotage Authorities of Quebec and Montreal over this territory (Quebec harbour) are studied when the Commission examines the situation created by the Montreal District overlapping the Quebec District, i.e., their joint territory (vide pp. 8-11).

The description of the western limit of the District poses a serious practical and legal problem in that it no longer corresponds to reality.

By contrast to the eastern limit, which is said to coincide with the eastern limit of the harbour of Québec, the definition of the District western limit contains no reference to the western limit of the harbour of Montreal or to the harbour itself.

The western limit of the Montreal Pilotage District is given as a geographical point, which, except for the absence of a joint area for the change-over of pilots, was adequate when it was defined but has since become meaningless. The result is that the Pilotage District of Montreal has no legal western limit, a situation which has caused numerous difficulties (vide pp. 627 and ff.)

The lack of a joint territory did not result in practical difficulties, possibly because the payment of dues was not compulsory in the St. Lawrence-Kingston-Ottawa District upstream.

The use of a geographical point, instead of an imaginary line drawn over an expanse of navigable waters as is normally the case, was and remains warranted by the way the harbour of Montreal is linked with the upper reaches of the River, i.e., through a system of locks and canals, the first lock providing an obvious place to embark and disembark and, hence, for the limit of the Pilotage District.

Up to 1959, the Pilotage District of Montreal was correctly terminated at the Lachine Canal but this limit became obsolete when the St. Lawrence Seaway system by-passed the Lachine Canal which has since been closed. The necessary correction to the statutory definition of this part of the District limits should then have been made by an amendment to the Canada Shipping Act. However, ten years after the opening of the Seaway this has not as yet been done, with the result that there is no longer any western limit and it is impossible to determine how far westward the jurisdiction of the Montreal Pilotage Authority and the competency of the Montreal pilots extend.

When determining the limit it is not permitted to extrapolate by selecting in the new canal system a point corresponding to the defined point in the old system. Such an interpretation would lead to an unrealistic situation: the limit would be at the entrance to the Seaway, i.e., in the middle of the harbour about buoy 193M, where the Pilotage District of Cornwall commences according to the definition of its eastern limit as contained in Order in Council P.C. 1960-1570 dated November 17, 1960, Ex. 1143, i.e., "the eastern end of the Seaway approach", two miles five cables downstream from St. Lambert lock.

Nor does the definition of the eastern limit of the Cornwall District provide a solution for it can not be said that it marks *ipso facto* the western



limit of the Montreal District, even though the Commission is of the opinion that sec. 324 C.S.A. empowers the Governor in Council to amend by regulation the statutory limits of sec. 323 (p. 9). Limits must be established by explicit legislation and the definition of boundaries does not necessarily mean that all the territory within such boundaries pertains exclusively to one District, e.g., adjacent Districts must overlap to provide for the changeover of pilots (Gen. Rec. 9, Part I, pp. 480 and ff.). However, if the entrance to the Seaway were considered the western limit of the Montreal District, the changeover of pilots would have to be effected there and not at St. Lambert lock as at present. The Montreal pilots would operate unlawfully if they proceeded upstream past the "eastern end of the Seaway approach" because they would then be outside their District.

The Montreal Pilotage Authority was quite aware of the legal situation and tried to overcome the difficulty by including in its By-laws its own definition of the harbour for pilotage purposes. Subsec. 2(h) of the District General By-law reads as follows:

"2. In this By-law

...  
(h) 'Harbour of Montreal' means that part of the River St. Lawrence which is bounded in the north by a line running east and west through the northernmost tip of Ile Ste. Therese and in the south by Victoria Bridge and a line joining the western end of Victoria Bridge and the eastern end of the Lachine Canal and including Bickerdike Basin and Windmill Point Basin;"

This definition can not serve any purpose in defining the District's western boundary since the Pilotage Authority is powerless to determine the extent of its own territorial jurisdiction, such regulations being reserved to the Governor in Council under sec. 324, or to Parliament.

The St. Lambert lock is bounded at both ends by separate sections of the Victoria Bridge. As the definition is now worded the area covered by the Victoria Bridge is not included and the limit of the harbour for pilotage purposes is the north face of the Victoria Bridge, thus excluding St. Lambert lock.

When the situation is corrected by appropriate legislation, care should be taken not to adopt the description of a western limit as described in this By-law definition, since it excludes the St. Lambert lock from the District and, therefore, makes it illegal for a Montreal river or harbour pilot to pilot a ship in the lock.

The description of the District in sec. 323 C.S.A. raises a further problem, i.e., whether or not the Richelieu River and its canal is part of the Montreal District. The wording of sec. 323 leaves no doubt: the District, *inter alia*, comprises all the waters and rivers situated between the harbours of Quebec and Montreal, and, since the Richelieu River and the international canal up to the Canada-U.S. border are navigable waters, they form part of

the Montreal District with the consequences this entails, especially in a District where the compulsory payment of pilotage is supposedly enforced. In pre-Confederation legislation this situation was taken care of realistically by stating in the definition of the Port of Montreal that it included "... and such parts of the tributaries falling into the said part of the river St. Lawrence as are navigable for seagoing vessels;" (The Montreal Harbour Commissioners' Act, 1894, 57-58 Vic. c.48 s.5.).

The comment on p. 11 regarding the definition of a District limit by reference to a description in other statutes applies equally to the eastern limit of the Montreal District.

The question of fixing the western limit of the District and the establishment of a joint territory with the District of Cornwall is dealt with in Recommendation No. 1, Section Five.

The situation created by the Richelieu waterway being within the District shows the necessity of defining the District limits in such a way that the governing legislation meets actual pilotage requirements.

(c) *Pilotage Authority*

The Minister of Transport is the Pilotage Authority. Since the legal situation is the same as in the District of Quebec, reference is made to pp. 11-12.

(d) *Compulsory System*

The compulsory payment of pilotage dues is in force in the Montreal District but, as in Quebec, there is no legal authority for its implementation. The legal situation is the same as in Quebec and reference is made to pp. 12-14.

Re exemptions, see pp. 20-21.

(2) LEGISLATION NOT CONTAINED IN, NOR EMANATING  
FROM, THE CANADA SHIPPING ACT AND AFFECTING  
THE ORGANIZATION OF THE PILOTAGE DISTRICT

(a) *The Corporation of the Pilots for and above the Harbour of Quebec  
(13-14 Vic. c. 123 (1850) as amended)*

Ten years before the Quebec pilots obtained their incorporation, an Act of the late Province of Canada created a professional Corporation to which all the Montreal pilots automatically belonged. This Corporation, however, was never activated since the pilots did not hold the first general meeting which was necessary for that purpose (vide p. 589). It does not appear that this law has ever been repealed and, therefore, it would suffice that the required first meeting be held to activate the Corporation (Part I, p. 5).

It is considered that this law should be abrogated since it would not serve any useful purpose at present on account of the two distinct groups of pilots in the District. Instead, each group should become a statutory corporate body as recommended in General Recommendation No. 25 (Part I, p. 549).

*(b) Payment of District Operating Expenses*

As in the Quebec Pilotage District, the cost of operating the District is borne by the Crown through the Department of Transport. The only authority for this practice is contained in the annual Appropriation Acts. This does not cover the cost of maintaining and operating the pilot vessel services that exist throughout the District; these are all provided by private entrepreneurs; payment for these services has been a matter of contractual arrangements between shipping representatives and the private entrepreneurs concerned. Neither the Crown, the District nor the pilots incur any expense on this account.

(3) PILOTAGE AUTHORITY'S ENACTMENTS APPROVED  
BY GOVERNOR IN COUNCIL

*(a) Appointment of Secretary-Treasurer and Payment of District Expenses (sec. 328 C.S.A.)*

The Montreal Pilotage Authority, like the Pilotage Authorities of all the other Districts, may meet its operating expenses out of licence fees and pilotage dues by following the procedural requirements stipulated in sec. 328, i.e., by seeking the approval of the Governor in Council (Part I, pp. 106 and ff.). At present, no use whatsoever is made of this statutory provision since all the operating expenses of the District are met by the Crown and all pilotage dues, except radiotelephone charges and compulsory deductions for the Pension Fund, are paid on behalf of each pilot to his Association.

*(b) Delegation of Pilotage Authority's Powers (subsecs. 327(2) and 329 (p) C.S.A.)*

No specific by-law has ever been made by the Minister as Pilotage Authority for the District of Montreal pursuant to subsec. 327(2) C.S.A. for the purposes of delegating some of his powers to a Superintendent or anyone else.

The Pilotage Authority, however, acting pursuant to subsec. 329(p) C.S.A. has through various provisions contained in the General By-law delegated some of its powers to various persons, i.e., the Board of Examiners, the Inquiry Officer in disciplinary matters and principally to his local representa-



tive who is locally referred to as the Supervisor of Pilots. The remark on page 19 regarding the validity of the appointment of the Superintendent applies to the Supervisor.

(c) *Exemptions and Withdrawal of Exemptions (subsec. 346(c), sec. 347 and subsec. 357 (1) C.S.A.)*

No by-law was ever made under subsec. 357(2) C.S.A..

The Pilotage Authority has failed to make any regulations to grant non-Commonwealth small vessels any exemptions under subsec. 346(c). Hence (and assuming that the compulsory payment of pilotage dues were legally established), any small vessel not registered in any of Her Majesty's dominions would be subject to the compulsory payment of these dues, i.e., the minimum charge applicable to a foreign vessel. This would apply, *inter alia*, to any non-commercial vessels, including pleasure yachts even of the smallest size, plying the Richelieu Canal and the St. Lawrence waters of the District of Montreal (vide Part I, p. 227).

On the other hand, the Pilotage Authority acting under sec. 347 C.S.A. has completely withdrawn the relative statutory exemptions granted to steamships of dominion registry engaged in coastal and inland voyages under subsec. 346(e) except for:

- (i) ships of less than 1,500 NRT employed in voyages between ports of the Province of Quebec; and
- (ii) passenger vessels regularly plying the St. Lawrence River and the Saguenay River not below the eastern limit of the Pilotage District of Quebec. This obviously covered the Canada Steamship Lines ferry service that existed up to 1956 in the summer months between Montreal, Quebec, Murray Bay, Tadoussac and Port Alfred. They have since been discontinued and this exemption no longer applies.

Therefore, in *résumé*, all ships, except the few enjoying an absolute statutory exemption and medium size vessels plying between Montreal and another port within the Province of Quebec, are subject to the compulsory payment of dues, irrespective of their size and type of trade.

The use of the word "vessel" as defined in the By-law to extend the application of the compulsory payment system to vessels that do not answer the statutory definition of "ships" is obviously invalid (vide Part I, p. 218).

In addition, there is the exemption indirectly granted for part of the trip between the entrance to the Seaway and St. Lambert lock through subsec. 3(1) of the Schedule which makes the additional fee payable only when the ship is actually piloted in that sector by a river pilot.

(d) *General By-law Passed under Sec. 329 C.S.A.*

The General By-law (Ex. 430) now in force was sanctioned by Order in Council P.C. 1961-1475 dated October 17, 1961; it was subsequently amended as follows:

- P.C. 1962-645 dated April 26, 1962;
- P.C. 1964-20 dated January 10, 1964;
- P.C. 1964-644 dated April 30, 1964;
- P.C. 1965-1173 dated June 23, 1965;
- P.C. 1966-777 dated April 29, 1966;
- P.C. 1967-697 dated April 13, 1967;
- P.C. 1967-1820 dated September 21, 1967;
- P.C. 1969-1911 dated October 1, 1969.

It replaces the previous General By-law that had been confirmed by Order in Council P.C. 1824 dated September 16, 1927, and its 37 amendments (Ex. 1539 (a)).

Not counting the schedule which contains the tariff or the interpretation section, the General By-law is divided into three parts: Part I contains provisions of general application, Part II applies to the river pilots and Part III to the harbour pilots. Its salient features are as follows (references indicate where the subject-matter is dealt with in Part I of the Report):

*General Provisions*

- (i) The Pilotage Authority, in addition to its normal powers as licensing authority, also directs and manages the service through its local representative, the Supervisor of Pilots (pp. 73 and ff.).
- (ii) Two groups of pilots operate the District: the river pilots and the harbour pilots. The only and exclusive function of the harbour pilots is to perform movages in the harbour of Montreal as defined for that purpose in the By-law.
- (iii) Each group is represented by its Pilots' Committee. The By-law does not settle the number of members of these committees or how they are to be selected by the pilots.

*River Pilots*

The organization for river pilots is very similar to the one that prevails in the District of Quebec:

- (i) Pilots are recruited from candidates with prerequisite qualifications through an elaborate apprenticeship system (p. 252), with the difference that apprentices are recruited both from pre-selected candidates and from qualified mariners. The pre-selected candidates are required to pass a two-year course in navigation at the Quebec Marine Institute and to serve for 36 months as a deck officer.

Before being licensed as a pilot, but not necessarily before being admitted as an apprentice, they must obtain a Certificate of Competency as First Mate of a home-trade steamship (unlimited as to tonnage) or of a higher grade. To be admitted as an apprentice, the qualified mariner must hold a Canadian Certificate of Competency not lower than Master of an inland water steamship, or First Officer of a home-trade steamship, or Second Officer of a foreign-going steamship, and must have served satisfactorily for at least 36 months as deck officer in charge of a watch in such vessel.

- (ii) The number of pilots is determined at the Authority's discretion after consultation with the Pilots' Committee but there is no criterion set out in the legislation (p. 257). The river pilots are purported to be classified into five grades. The newly licensed pilots are given grade CI to be gradually promoted to Grade C2, C3, B and A, after prescribed periods of satisfactory services in the lower grades.<sup>1</sup> The licence in each grade is limited as to capacity and size of ship the licence holder is entitled to pilot (p. 263). Such a grade system is a necessary feature in a pilotage service which is controlled and managed by the Pilotage Authority, but it is not permissible under Part VI C.S.A. A similar system in the Quebec District was declared *ultra vires* by the courts and an amendment to the Act would be necessary to make it legal (vide Part IV, pp. 22-23). The governing By-law provisions for the Montreal District have, however, been validated *pro tempore* by sec. 7 of the 1969 amendment to the Act (17-18 Eliz. II c. 53) according to which all By-laws made by Pilotage Authorities existing as of July 9, 1969, are deemed to have been legally made and be valid until December 31, 1969, or for a further twelve months if the delay is so extended by an Order in Council. This statutory provision does not apply to By-laws that may be made after July 9, 1969, and, hence, preclude any By-law amendment that could not be legally made by the Pilotage Authority. Therefore, the regulations governing the grade system are frozen in their present shape and form until new statutory legislation providing for it is enacted by Parliament.

<sup>1</sup> On account of a drafting error, it would appear from subsec. 22(1)(c)(i) that the newly licensed pilot is not given any assignment before the expiration of six months from the date the licence is issued. The situation, however, is that upon receiving his licence a pilot is graded CI and is assigned to vessels not exceeding 2,000 NRT for the first six months or until he has completed 100 assignments, whichever comes later (Ex. 1539(d)).

The text of subsec. 23(6) should also be clarified by qualifying the incompetence and unsuitability in relation to Grade A. The 1961 amendment deleted the clarification that existed in the 1959 text. According to the rules of interpretation, this subsection should be taken to mean that an incompetent and unsuitable pilot should be given Grade B, which leads to a preposterous situation.



- (iii) The By-law provides for the appointment of temporary pilots from the apprentices in case of a shortage, such licences to be cancelled when the shortage no longer exists.
- (iv) The pilot's status is that of a quasi-employee of the Pilotage Authority. Pilotage work is to be evenly distributed by the Supervisor through a despatching system based on both tour de rôle and grade with, as in Quebec, an assignment equalization rule (pp. 73 and 74).
- (v) Contrary to the situation in Quebec, the By-law does not establish the method of remuneration, but merely provides for the collection of dues by the Superintendent and for the remittance of all dues collected—even those earned as a result of compulsory payment—less required contributions to the Pension Fund and radiotelephone rental charges, to the pilots' association, the *United Montreal Pilots*. This provision was not amended when the *United Montreal Pilots* ceased to exist December 27, 1968.
- (vi) No regular leave of absence is provided for. As in Quebec, the Pilotage Authority is not concerned with the pilots' remuneration and leave of absence may be granted at the full discretion of the Supervisor. Sick leave is automatically granted, the Supervisor having the right to investigate whether illness is genuine. The By-law does not provide for leave with pay or without pay.
- (vii) Basic dues are computed on draught, tonnage and distance using the zone system. Two scales are provided, the lesser for small coasting and inland vessels of less than 2,000 tons. The zone dividing lines are Portneuf, Trois-Rivières and Sorel. Movage rates are provided in the form of flat rates for specified movages which may be performed by the river pilots in ports other than Montreal. A detention charge is payable when a pilot is detained on board for any reason from January 1 to March 15, and during the rest of the year for any reason except stress of weather, adverse tidal conditions or adverse ice conditions. A detention charge is also payable when a pilot has to wait for more than one hour to embark at St. Lambert lock, or between January 1 and March 15 for more than six hours counted from the scheduled arrival time at the boarding station, or the scheduled departure from a berth. The detention fee is \$3 per hour with a maximum of \$25 per calendar day. The tariff also provides rates for compass adjusting, dead ships, cancellations, winter assignments, radiotelephone rental charges, a \$3 transportation fee for boarding or disembarking from St. Lambert lock and a general surcharge (except for radiotelephone rental charge) which as of June 10, 1969, was raised to 31.15 per cent.

- (viii) The By-law does not provide for a changeover of pilots at Trois-Rivières or for dividing the river pilots into upper river (Montreal-Trois-Rivières) and lower river (Trois-Rivières-Quebec) pilots. This matter is dealt with only indirectly by providing a rate per zone and a detention charge for the relief pilots' waiting time in winter at the Trois-Rivières station. The legality of the *de facto* division is questionable because it conflicts with the provision of sec. 361 C.S.A. which prohibits a pilot from leaving a ship which he has undertaken to pilot until the ship has reached her destination or the limit of the District. Neither a pilot nor a Pilotage Authority is at liberty to arrange for a changeover of pilots anywhere *en route*.

#### *Harbour Pilots*

The status and working conditions of the harbour pilots are, according to the By-law, approximately the same as those normally enjoyed by pilots in Districts other than Quebec and Montreal (river pilots). They are quasi-employees of their Authority which, according to the By-law also pools the pilotage earnings in addition to handling despatching. In addition to the features applicable to both groups, the following apply to the harbour pilots only:

- (i) They are recruited from the ranks of qualified mariners holding a Certificate of Competency not lower than Master of an inland water steamship. There is no official apprenticeship system.
- (ii) There is no grade but the first licence is probationary for one year, subject to cancellation in the event of unsatisfactory service.
- (iii) The harbour pilots' remuneration is an equal share of the pool operated by the Pilotage Authority, the sharing being based on availability for duty (subsec. 46(2)).
- (iv) No regular leave of absence is provided. This is granted at the discretion of the Supervisor and for sharing purposes is counted as time of non-availability. However, sick leave will full pay to a maximum of 15 days within one navigation season may be granted. In other words, such sick leave is counted as duty time for sharing purposes.
- (v) Despatching is attended to by the Supervisor through a tour de rôle system based on the equalization of trips rule (sec. 10).
- (vi) Movements of ships wholly contained within the harbour of Montreal as defined in the General By-law are movages which come within the exclusive competency of the harbour pilots and comprise the only pilotage service they are allowed to perform.

- (vii) The tariff provides rates for such movages varying from \$20 to \$41 according to a scale based on tonnage. A movage from the wait wall to St. Lambert lock calls for a \$20 charge plus \$5 per hour after the first hour. The general provisions for dead ships and cancellations apply, plus a general surcharge which was raised to 39.15% on June 10, 1969.

Apart from the illegality of most of its provisions (like all existing Districts' By-laws as demonstrated in Part I of the Report), this By-law is unsatisfactory on other counts, *inter alia*:

- (i) There is a conflict in the wording of subsecs. 21(1) and 46(1) as to the composition of the two separate Pilotage Funds, bearing in mind that, according to the rules of interpretation, the titles and subtitles do not form part of the provisions of the law. According to subsec. 21(1) all money, without distinction, collected by the Pilotage Authority forms part of the Montreal River Pilotage Fund which, after the compulsory deduction of the Pension Fund contribution and the dues collected for radiotelephone rental charges, is to be paid to the United Montreal Pilots. This, therefore, would include the pilotage dues earned by the harbour pilots, which, in fact, form part of the Montreal Harbour Pilotage Fund according to subsec. 46(1).
- (ii) The term "navigation season" should be defined or dropped now that ships use the St. Lawrence River throughout the year.
- (iii) The By-law fails to recognize that the Montreal District forms part of the St. Lawrence system, particularly in not defining the powers and jurisdiction of the Quebec District Supervisor over the Montreal pilots when they are despatched upbound from that point (Part IV, pp. 429 and ff.).
- (iv) In subsec. 46(4) the reference to sec. 17 should be deleted or at least the word "or" be replaced by "and" and avoid the conflict that otherwise ensues between the sick leave provisions contained in secs. 17 and 51.

By P.C. 1955-29/1712 dated November 16, 1955, the Governor in Council approved the By-law made by the Pilotage Authority pursuant to sec. 329 C.S.A. concerning the Montreal river pilots' Pension Fund. This By-law cancelled the previous regulations confirmed by P.C. 774 of May 13, 1953, as amended by P.C. 1156 of July 28, 1954. This legislation is studied later on in the Report.

There is no Pilot Fund for the Montreal harbour pilots.



## 2. HISTORY OF LEGISLATION

The earliest known reference to pilotage in what is now the Pilotage District of Montreal, i.e., above the harbour of Quebec, is in an ordinance dated April 12, 1790 (30 Geo. III c. 1) where for the first time mention is made of the *Port of Montreal* and of *Pilots and the Navigation of the River St. Lawrence below Montreal*. As seen earlier, at that time the term *port* had a different meaning than *harbour*: it referred to what is now called a Pilotage District.

Previous legislation made no mention of pilotage between Quebec and Montreal for the obvious reason that ocean-going vessels still came no further upriver than Quebec. Water transportation between Quebec and Montreal was provided by small schooners of 50 to 100 tons, and the Lachine Rapids were an impossible barrier to the ships of that era. For all practical purposes, Quebec was the head of navigation.

The 1790 ordinance divided the St. Lawrence River into two distinct sectors for pilotage purposes but there was only one Pilotage Authority—the Superintendent of Pilots—who had jurisdiction over both the “Port of Quebec” and the “Port of Montreal” and their pilots.

The second time pilotage above Quebec is mentioned in legislation is in the 1797 Act (37 Geo. III c.4) entitled “An Act for amending the Laws now in force, and making more effectual Provision for the Pilotage on the River St. Lawrence, between the Bason of Quebec and the Island of Bic, and for improving the Navigation thereof unto the City of Montreal”. Additional dues were imposed on vessels plying between, *inter alia*, Quebec and Three Rivers or upward. These levies were collected by “the Naval Officer of the Port of Quebec” (appointed by the Government) and were used to support and improve navigation and pilotage on the River St. Lawrence from Bic Island to Montreal.

Maritime traffic increased considerably as the colony expanded and more ships sailed above Quebec to Montreal. Larger, newer ships required greater skill and knowledge on the part of the pilots and the pilotage service gradually developed into an extensive organization. One result was that the channels between the lower St. Lawrence and Montreal were improved and provided with additional aids to navigation. The task no doubt became too great for one official and in 1805 the responsibilities which, up to that time, had been entrusted to the Superintendent of Pilots were given to a public corporation, *Quebec Trinity House* (pp. 30 and ff.).

The *Trinity House Act* referred for the first time to the “Harbour of Montreal”, but the distinction between the Port of Quebec and the Port of Montreal was not retained. The whole section from the lower St. Lawrence to the harbour of Montreal inclusive was called the Port of Quebec (45 Geo.

III c. 12). The Port of Quebec and the Harbour of Montreal were defined as follows in the Act, sec. VI:

"...and the Port of Quebec for the purposes of this Act, shall be held and deemed to comprehend all that part of the river Saint Lawrence, between the Island of Bic, and anchorage thereof inclusive, up to the point of Saint Anne's, above the City of Montreal: ...and the Harbour of Montreal, for the said purposes, shall comprehend that part of the said river from the bay below the current of Saint Mary's, inclusive, up to the said point of Saint Anne's."

Trinity House was composed of nine persons appointed by the Governor: the Master, the Deputy Master and seven Wardens of whom three had to reside in Montreal. Both the Quebec Harbour Master and the Quebec Superintendent of Pilots were Wardens. In addition, a Harbour Master was appointed for the harbour of Montreal but he was not one of the Corporation Wardens as was his counterpart in Quebec.

The basic organization of the pilotage service was not changed, the two separate groups of pilots were retained and remained under a single Pilotage Authority, Trinity House, instead of the Superintendent of Pilots. The Government retained control over the licensing of pilots. The Act provided that the Governor was to "appoint and commission by warrant, or Branch under his hand and seal at Arms...other fit and proper persons to be, Branch Pilots, for and above the said Harbour" (Quebec Harbour) "...provided always, that no person shall be so appointed, until he shall have been examined..." No person was to be so appointed until he had been examined and certificated by Trinity House, the licensed pilots being invited to attend the examination and ask questions.

Above the harbour of Quebec, pilotage was not compulsory in any way: Masters were free to take a pilot or not, but if one was employed he had to be a licensed pilot and the stipulated rates had to be paid.

The pilotage rates were fixed in the Act itself and were for the round trip. The only boarding station was located at Quebec, and the pilots remained with the vessel for the complete duration of the round trip above the harbour of Quebec. The rates were based on the length of the trip and the ship's tonnage. A round trip to Montreal cost twice as much as a trip to Three Rivers: 7 pounds 10 shillings for a vessel under 200 tons, 10 pounds if between 200 and 250 tons, and 12 pounds 10 shillings if larger. If the Master so requested, the pilot was obliged to remain on board 14 days from the date of the arrival of the vessel in the harbour of Montreal. For detention exceeding 14 days, the pilot was entitled to 5 shillings per extra day, plus his bed and board during the full time of the detention.

In 1805, all the navigable waters of the colony did not come under the jurisdiction of Trinity House. The western limit of its authority was "the point of Saint Anne's" on the western tip of Montreal Island, now known as Ste-Anne de Bellevue.

By that time, mariners had learned how to overcome the rapids above Montreal with the aid of rafts, scows and special flat-bottomed boats. By 1805, the waterway above Montreal had become such an important trade route and was developing into such a vital artery for the growing province of Upper Canada that it was felt in the public interest to improve the channel through the rapids and to regulate navigation in that part of the River. The Government voted a sum of 1,000 pounds to improve the waterway above Montreal in order to facilitate water communications between the Province of Quebec and Upper Canada and increase commerce between both Provinces. As was the practice at that time, responsibility for the works was entrusted to a Board of three Commissioners. *Inter alia*, they were to clear the channel in the rapids and make whatever improvements they deemed advisable between Lachine and Montreal (1805, 45 Geo. III c. 6).

At the same time, the Government passed legislation on pilotage in that section, despite the fact that Chateaugay and the Lachine Rapids, being east of Pointe Ste. Anne, were within Trinity House's jurisdiction, although they were inaccessible to ocean-going vessels. Its title (1805, 45 Geo. III c. 9) is as follows: "An Act for the appointment of an Inspector and Measurers of Scows and Rafts, and for regulating the Pilots and Conductors thereof, between Chateaugay and the City of Montreal".

Its preamble is self-explanatory:

"Whereas many accidents and considerable loss of property have arisen in the rapids of the River St. Lawrence, above the City of Montreal, partly by ignorance or negligence of persons undertaking to pilot and conduct scows laden with flour, and other provisions, also, oak timber, staves and other lumber, coming from Upper Canada, and fire wood from different parts of this Province, above the said rapids, and it being necessary that some Regulations be made to guard as much as possible against such accidents and losses, in future . . ."

The Act provided for the appointment by the Governor of one inspector and two measurers. One of their duties was to prevent the rapids being navigated by craft whose dimensions would not ensure safe transit under given conditions. A second duty was to make recommendations for the appointment of pilots. The Act stipulated that licensed pilots were to be employed whenever vessels were not navigated by their owners. These pilots were licensed by the Justice of the Peace for the District of Montreal on the recommendation of the inspector or either of the two measurers. The Act also fixed the pilotage rates. This Act was of a temporary nature and was to lapse in 1808, but that year, by 48 Geo. III c. 13, its provisions were made permanent with some modifications, e.g., the scale of fees was cancelled and the determination of the pilots' remuneration was left to be agreed between the pilot and the owner, but only a licensed pilot could be employed unless the vessel was navigated by its owner.

In 1806 (46 Geo. III c. 3), a further sum of 1,000 pounds was voted towards improving inland navigation between Montreal and Lake St. Fran-



cis; in 1808 (48 Geo. III c. 19), a permanent fund for the improvement of inland navigation above Montreal was created. The preamble of this Act read as follows:

“Whereas the monies that have been granted for the improvement of the Inland Navigation of this Province, between Montreal and Lake Saint Francis, have been productive of such beneficial effects that it is expedient and proper to provide a permanent Fund for the further prosecution of improvements therein . . .”

The fund was to be supported by dues imposed on every vessel that navigated that stretch of water.

The pilotage organization in the Lachine Rapids proved to be short lived because it was soon found that there was a limit to the improvements that could be made to the channel in that area. Hence, a plan was conceived to construct a system of locks and a canal to by-pass the rapids. In 1815, an Act was passed (55 Geo. III c. 20) “. . . to grant an aid to His Majesty, to assist in opening the canal from the neighbourhood of Montreal to Lachine, and further to provide for facilitating the execution of the same.” 25,000 pounds were granted for this purpose and three Commissioners were to be appointed to act as a body corporate to build and maintain the canal. In 1819, it was decided (59 Geo. III c. 6) to turn the enterprise over to private interests who had petitioned to construct the proposed Lachine Canal with a further extension downriver to overcome the St. Mary's Current. The petitioners were incorporated for this purpose. The sale of shares was open to the public and a Crown contribution was foreseen in that the Military Commander was authorized to buy any number of shares not exceeding 600, and the Governor, on behalf of the Province, 200 shares. The new corporation was authorized to impose tolls on maritime traffic.

It was soon found that this private venture was bound to fail but the project was considered so vital that as early as 1821 the Government passed preventive legislation to authorize the Crown to intervene and take over if the fears entertained at that time became a reality. By 1 Geo. IV c. 6 a further sum of 10,000 pounds was added to the 25,000 pounds voted four years before and the Governor was empowered to appoint Commissioners to be a body corporate for the purpose of completing the construction of the canal.

The preamble of the Act explains the situation:

“Whereas it is expedient to adopt effectual measures for opening a Navigable Canal from the neighbourhood of Montreal to Lachine, in the event that the Company of Proprietors by law thereunto authorized, shall not make and complete the same within the period prescribed by an Act passed by the Legislature . . . or shall have left their right so to do, by not fulfilling the conditions which are imposed on them by the said Act or shall have abandoned their right to make such Canal pursuant to such Act . . .”

The Commissioners were authorized to make plans for continuing the canal farther downstream to overcome the St. Mary's Current and, finally,

they were empowered to treat with the shareholders respecting the relinquishment of their rights.

In 1823, the canal had not yet been completed and a further sum of 12,000 pounds was voted "... towards continuing completing the Canal ... actually in progress ..." Again the Commissioners were requested to appraise the cost of extending the canal below the St. Mary's Current (3 Geo. IV. c. 23). In 1825, the Lachine Canal Commissioners were authorized to borrow from the public a sum not to exceed 30,000 pounds (the interest to be paid by the Government) to complete the Lachine Canal because the money previously voted by the Legislature for that purpose was insufficient and it was deemed in the public interest to complete the work without delay (5 Geo. IV c. 19).

The Lachine Canal enterprise was only one of many projects undertaken during that period to improve water transportation. Another was the Richelieu Canal. In 1818 (58 Geo. III c. 18), a private corporation was authorized to make and maintain a navigable canal from the town of St. John on the River Sorel or Richelieu to terminate at the "Bason of Chambly". Here again the task proved beyond the means of private enterprise and as had been done the same year for the Lachine Canal, a public corporation was created to take over in the event the private company was unable to complete the project. Priority was to be given to the Lachine Canal.

The Lachine Canal had been completed by 1826 and was operating, as is shown by the Act passed that year (assented to in 1827) to alter and lower certain rates and tolls in the Lachine Canal for a limited time (6 Geo. IV c. 3). Work on the Richelieu Canal was in progress: 6 Geo. IV c. 33 granted a further sum of 2,400 pounds that year to the Richelieu Canal Commissioners.

A similar development was under way in the Province of Upper Canada. The Welland Canal was under construction and the enterprise was considered of such interest to the Province of Quebec that in 1827 (7 Geo. IV c. 13) the Governor was authorized to subscribe for a maximum of 2,000 shares in the stock of the Welland Canal Company and to advance for such purpose the sum of 25,000 pounds currency. The preamble of the Act sets out the reasons for such an extraordinary measure:

"Whereas the completion of the Welland Canal actually in progress in the Province of Upper-Canada is an object of great public utility to the Canadas, inasmuch as the same will admit the free passage of vessels from Lakes Erie, St. Clair, Huron and Michigan to Lake Ontario, and the River St. Lawrence down to Prescott, and is also of importance to your Majesty's Government in the said Provinces ..."

Further steps were also taken to improve navigation on the St. Lawrence River west of the Lachine Canal. In 1830 (10-11 Geo. IV c. 27), a survey was authorized to ascertain whether it was practical to improve the naviga-

tion of that part of the River St. Lawrence between Cascades and Coteau du Lac.

In 1831, after the problem posed by the Lachine Rapids had been solved by the construction of the Lachine Canal, it was decided to abolish the corporation created in 1808 to improve and maintain the channel in the rapids. In its place a new corporation was created to improve Ste. Anne's rapids "... so as to admit of navigation by Steam-Boats at that point" (1 Wm. IV c. 20). The Commissioners' main tasks were to have hydrographic charts of the rapids made and to estimate the cost of necessary improvements. In 1836 (6 Wm. IV c. 20), the 1805 Act providing for pilotage in the Lachine rapids and for measuring rafts and vessels was repealed with the result that government-controlled pilotage in that sector was abolished. Anyone could use the rapids channel but at his own risk, and rafts or cribs which ran aground were to be removed within 36 hours. Up to 1934, i.e., the year the St. Lawrence-Ottawa-Kingston District was created, pilotage was regularly performed in that sector and in the canals but by unlicensed pilots and for whatever price the parties involved agreed to among themselves.

Reverting to pilotage organization between Quebec and Montreal, the Trinity House Act of 1805 introduced a number of innovations including the creation of the first pilot fund entitled "the decayed Pilot Fund". This was a common fund whose purpose was to grant relief to "distressed and decayed Pilots, and the Widows and Children of Pilots" and to which all pilots were obliged to contribute. Both groups were quickly dissatisfied with the administration of the fund. The Lower St. Lawrence pilots made by far the greatest contribution to the fund but it was soon almost exhausted because of the heavy (and, in the opinion of the Quebec pilots, disproportionate) demands by the Montreal group. It was, therefore, felt advisable to create a separate fund for the pilots of Quebec and above. This was done in 1812 by an amendment to the Trinity House Act (52 Geo. III c. 12)—one further step toward the eventual division of the Pilotage District, i.e., the Port of Quebec.

An amendment to the Trinity House Act in 1811 (51 Geo. III c.12) made five years of continuous navigation between Montreal and Quebec a prerequisite to sitting for an examination to obtain a pilot's licence in the Montreal section. The same Act altered the tariff structure by dividing the District, for tariff purposes, into three zones with intermediary points at Portneuf and Three Rivers. The dues were no longer based on the round trip and those for upbound trips were substantially higher, e.g., for a full journey from Quebec to Montreal in a vessel exceeding 250 tons the upbound trip cost 15 pounds but only 10 pounds 15 shillings downbound. The pilot could no longer be required to remain with the ship for more than 48 hours after arriving at the destination.

As for the pilots' working conditions during that period, the only boarding station was still the harbour of Quebec where the pilots had to remain on



the alert for the arrival of vessels to offer their services. At that time there was no signal station of any sort and the first news of an arrival was when the vessel reached Quebec.

The trip between Quebec and Montreal was made in sailing vessels between 200 and 250 tons and with a maximum draught of 11 or 12 feet. If the wind was adverse, vessels had to tack with the aid of the rising tide. Two tides were generally required to cover the first 36 to 39 miles as far as Pointe Platon or Anse Portneuf, but from there they had to wait for a favourable wind to travel the remaining 124 miles against the current to Montreal. They often took two or three weeks to reach the entrance to the port of Montreal where the worst ordeal was still to be overcome: the St. Mary's Current which ran at seven knots.

If the favourable wind was not strong enough, they were towed upstream against the St. Mary's Current by 10, 12 or even 16 oxen hauling on a long rope.

Above the St. Mary's Current, there was a little natural harbour with accommodation for a few small vessels. There they used to anchor for many weeks, sometimes two or three months.

Pilots generally had only two or three vessels to pilot during any one navigation season.

Despite the shallow draught of vessels at that time, the pilots' task was quite difficult. They had to come out of the harbour of Montreal under sail in confined waters and clear the narrow exit, at the same time anticipating the eddys and cross-currents. This manoeuvre required much skill and attention. The pilots had no buoys or lights to aid them and had to use trees and buildings as marks, many of which are still in use today (*Le pilotage du Saint-Laurent de Québec à Montréal*, Ex. 1456(e)).

The following excerpts from an article entitled "In St. Mary's Current" published in the *Montreal Gazette* of April 3, 1965 (Ex. 1470(b)) describe the difficulties that had to be overcome:

"The Harbour of Montreal is perhaps as safe a one as could be wished, when a vessel is once in it, but it is rather difficult of access.' So wrote Thomas Doige in the year 1819. The difficulty of access to which he referred was that created by the St. Mary's Current, which then, as now, ran above St. Helen's Island, as well as between St. Helen's and the Island of Montreal.

For the sailing ships of his day, this current presented a serious obstacle. Only when backed by a strong wind could they mount the river to the harbor. When such a wind was wanting, they would have to lie at anchor below St. Helen's Island. It was a not uncommon sight at that period to see fleets of sailing ships lying at anchor for days, or even for weeks, waiting for the wind to veer in their favor.

The barges that brought hay and wood up the river to Montreal were equipped with sails of extraordinary size and design, to give them more power from the winds to carry them against the current. As late as 1900 these barges presented a nearly unique sight on the river. Sails of this kind were probably to be seen nowhere else in North America, perhaps nowhere else in the world.

There were a few steam-boats on the river in Doige's day, but their primitive engines lacked power to master the current. They were, in fact, in a worse position than the sailing ships, having to be hauled by long ropes, pulled by oxen along the shore."

"The difficulties of the St. Mary's Current appear in Philippe Aubert de Gaspé's description of his steamboat journey from Quebec to Montreal in 1818."

"But as they approached the foot of St. Helen's Island neither wind nor steam could help them. It was then necessary 'to have recourse to the united strength of forty-two oxen to assist... in ascending the current.'

The problem of St. Mary's Current was pondered with much concern."

"In 1823 a grander scheme was proposed. By an act of Legislature a commission was appointed to investigate the feasibility of constructing a great canal all the way from the head of the Lachine Rapids to the foot of the St. Mary's Current. ... But the whole scheme collapsed when the cost was estimated.

In the following year, however, there was an incident that pointed to a solution of another kind. In 1824 a tow boat named *The Hercules*, with new engines of exceptional power, entered the current with the ship *Margaret* in ballast in tow. It met and surmounted the onrush of the current and came under its own steam into the harbour of Montreal.

This incident of 1824 marked the first victory of steampower over the St. Mary's Current."

In 1822, it was found necessary to provide Trinity House with more Wardens from Montreal. 2 Geo. IV c.7 added two Wardens for Montreal and one for Quebec. Thus the Corporation consisted of a Master, Deputy Master and ten Wardens, including the Quebec Superintendent of Pilots and the Quebec Harbour Master both of whom were Wardens *ex officio*.

By 1830, shipborne traffic between Quebec and Montreal had increased so much that the facilities in Montreal Harbour were found to be no longer adequate. 10-11 Geo. IV c.28 provided for the appointment of three Commissioners charged with improving and enlarging the harbour. Its preamble is self-explanatory:

"Whereas the Harbour of Montreal is at present insufficient for the accommodation of shipping by which it is frequented, it is expedient that it be improved and enlarged ..."

This was another partial encroachment on the powers of Trinity House under whose jurisdiction came the harbour of Montreal and which was normally responsible for improvements to the harbour facilities. At that time, the appointment of Commissioners for a special purpose did not mean that certain rights were taken away from Trinity House but merely that the Government undertook to improve the harbour at its own expense, and the practice was to appoint a Board of Commissioners to perform the task and spend the money voted for the purpose. As time passed, these Commissioners became a public corporation which superseded the Montreal Trinity House in 1873 and took over all its responsibilities and functions both over Montreal harbour and Port.

By 1832, shipborne traffic between Quebec and Montreal had become so important that it was felt desirable to give the Port of Montreal its own Authority. The 1832 Act (2 Wm. IV c. 24) was entitled "An Act to repeal in part certain Acts therein mentioned, and to establish and incorporate a Trinity House in the City of Montreal." It terminated the Port of Quebec at Pointe du Lac (St. Maurice County), and the portion of the River upstream from that line became the Port of Montreal. The Montreal section of Trinity House became an independent corporation under the name *Trinity House of Montreal* whose duties included trusteeship and administration of the Montreal Decayed Pilot Fund.

The western limit of the Port was extended from Pointe Ste. Anne, where it previously ended, to the western boundary of the province, thus adding what is now the Cornwall District. The western limit remained unchanged until 1934. However, the pilotage jurisdiction of the new Trinity House extended beyond the eastern limit of the Port. It had licensing and rate-fixing authority and surveillance responsibility over the pilotage service between Quebec and Montreal, i.e., over the service performed by the pilots for and above the harbour of Quebec.

The Montreal Trinity House was composed of seven persons appointed by the Governor: the Master, the Deputy Master and five Wardens, all of whom resided in the City of Montreal. Its jurisdiction was the same as Quebec Trinity House had had, *inter alia*, responsibility for all navigation and all waterways in its territory (especially responsibility for the harbour of Montreal), control over the pilotage service and judiciary powers over pilotage matters. The Harbour Master of Montreal became an officer of the Corporation but not a member.

The Corporation was given power to make regulations in all its various fields of activity, i.e., not only for the direction, conduct and government of the Corporation itself and of its property, real and personal, but also for safer, more convenient and easier navigation on the River St. Lawrence within the limits of the Port of Montreal, including laying down and taking up buoys and anchors; erecting lighthouses, light ships or floating lights, beacons and landmarks; clearing sand, rocks and other objects to improve the various harbours within the limits of the Port. Regulations could also be made for the discipline and control of the Montreal pilots and apprentices, i.e., over their professional conduct, their qualifications, instruction, practical training and examinations.

The Corporation's judicial powers were to be exercised by at least three of its members. Its jurisdiction extended over disputes between pilots and Masters respecting pilotage dues, complaints against pilots for neglect or misbehaviour or breach of by-laws and all other offences committed against the Act. It enjoyed the full powers of a court to summon accused parties and the necessary witnesses, to administer oaths, to pass judgment with such costs



as were considered reasonable, and to issue warrants of seizure or of imprisonment. Judgments exceeding 20 pounds were appealable to the Court of King's Bench in Montreal.

The 1832 Act provided that pilot candidates were to be examined "in the presence of such Branch Pilots as shall see fit to attend the examination, and who may propose questions" but this procedure was modified by the 1839 ordinance which provided instead that the examination was to take place "in the presence of such Branch Pilots as may have been summoned for that purpose" and were to propose questions to the candidates. The duration of apprenticeship continued to be five years' employment on the River between Quebec and Montreal. The ordinance was to remain in force only until November 1, 1842.

The trusteeship of the Montreal Decayed Pilot Fund was transferred to Montreal Trinity House. The statutory requirements for administration and accountability were the same as those applicable to Quebec Trinity House.

The 1832 Act was for a limited period until May 1, 1837, but these were troubled times when the power of the Legislature had been suspended and no legislation was passed in either 1836 or 1837. Therefore, the Montreal Trinity House Act of 1832 automatically lapsed May 1, 1837, from the legal point of view.

It was not until 1839 that the legal situation was rectified by an ordinance enacted by Governor Sir John Colborne, who *ex officio* had legislative powers at that time (Statutes of the United Kingdom, 1-2 Vic. c. 9) (Imperial Act 1838, 1 Vic. c. 9).

There is no doubt that during those two years both Montreal Trinity House and the pilotage service continued to function, but the 1839 ordinance (2 Vic. c. 19) created the Corporation of Trinity House of Montreal as if it had never existed.

As far as pilotage is concerned, the ordinance was almost a verbatim reproduction of the 1832 Act. The most significant change was the enlargement of the Port of Montreal by extending its eastern limit from Pointe-du-Lac to "the basin of Port Neuf exclusively". The harbour of Three Rivers now came under the jurisdiction of Montreal Trinity House. The prerequisite period on the River for an apprentice was reduced from five years to three years.

The Montreal Trinity House Act was continued from time to time for further limited periods (1842, 6 Vic. c. 11; 1846, 9 Vic. c. 39; 1847, 10-11 Vic. c. 8; 1848, 11 Vic. c. 3). The 1839 ordinance was finally repealed in 1849 when the provisions relating to Montreal Trinity House were consolidated and made permanent.

During that time the Government was determined to improve the waterway. In 1836 (6 Wm. IV c. 23), a survey on Lake St. Louis was authorized and it was planned to enlarge the Lachine Canal, "for establishing, within the limits of Lower Canada, a water communication, corresponding if possible, with that which the Legislature of Upper Canada has undertaken to establish on the River Saint Lawrence, near Cornwall, in the said Province of Upper Canada".

In 1838, the Commissioners for the improvement of the harbour of Montreal were authorized to borrow a further sum of money (1 Vic. c. 23), and by a further ordinance (1 Vic. c. 26), 500 pounds were voted for a survey of Lake St. Peter to be made by Commissioners appointed for the purpose.

After the Union of Upper and Lower Canada (1840, 3-4 Vic. c. 35, Imperial) the Government of Canada decided to acquire exclusive control over the Welland Canal, and in 1841 (4-5 Vic. c. 48) the Government was authorized to purchase the shares owned by individuals. By a further Act passed in 1845, the Government was authorized to give a higher price for shares bought in London on account of higher cost to these shareholders due to differences in currency (8 Vic. c. 74).

Also in 1841 (4-5 Vic. c. 59) the Government advanced money for the erection of lighthouses within the limits of the Port on behalf of the Montreal Trinity House to improve the safety of navigation because Trinity House lacked the necessary funds to provide them. The Corporation was authorized to levy light dues to repay the loan. It was further provided that all these assets were to return to Quebec Trinity House, if and when the Montreal Trinity House Act was allowed to lapse.

In 1841 (Royal Assent in 1842), the Montreal Board of Trade was incorporated by 4-5 Vic. c. 90 and the Quebec Board of Trade by a similar Act. Both were made permanent in 1845 (8 Vic. c. 67).

From time to time, further subsidies were voted for various works to improve the waterway and also to enable the Montreal Harbour Commissioners to borrow additional sums of money.

In 1849, the Act governing both Trinity Houses were consolidated. The new Montreal Trinity House Act (12 Vic. c. 117, Ex. 1470(d)) brought no change in the composition of the Corporation nor in its powers, responsibilities and jurisdiction. The Act did not limit the number of pilots and any applicant who had met the statutory prerequisites was entitled to be licensed, i.e., five years of navigation on the River between Quebec and Montreal, including three years in sailing vessels, knowledge of French and English languages, skill in ship handling and local knowledge. A pilot's licence was automatically suspended if he failed to pay any fine imposed within three months after the judgment or within any shorter period, not less than one

month, stated in the judgment. A pilot's licence could be withdrawn if a shipowner complained that a ship was lost or damages were incurred because a pilot was at fault, but the pilot was entitled to receive a new licence provided he was able to pass a new examination establishing that he was qualified in both skill and knowledge. The basis for the computation of the tariff remained the same, i.e., the three zones between Quebec and Montreal, with Portneuf and Three Rivers as the intermediate points, and three classes of tonnage. The difference between upbound and downbound trips was also maintained, i.e., for a trip between Quebec and Montreal a ship of over 250 tons was charged 16 pounds for the trip upriver and 10 pounds 15 shillings downriver. The responsibility for supervising the pilots rested with the "Captain of the Port" who was the Harbour Master as well.

Neither pilotage nor the payment of pilotage dues was compulsory, but between Quebec and Montreal no one could perform pilotage except a pilot licensed for the District. This obligation was limited a year later to non-local traders. By 13-14 Vic. c. 95, river craft, steamers, barges and lighters engaged in navigation between Quebec and Montreal only were exempt from the obligation to employ a licensed pilot if a pilot was engaged. The amendment stated "... that it shall and may be lawful for any person to pilot or to be hired, engaged or employed to pilot any steamer, river craft, barge or lighter on that part of the River St. Lawrence ... without any penalty or forfeiture being incurred thereby; ..."

In contrast, c. 96 of the same statute exempted Masters of vessels under 120 tons registered in Lower Canada from compulsory pilotage in the Port of Quebec but made it mandatory that any pilot they did employ had to be a licensed pilot.

The pilots remained self-employed and the dues they earned belonged to them personally, subject to the compulsory contribution to the Decayed Pilot Fund, but no pilot not otherwise employed could refuse (except for valid reasons) to take charge of a vessel when so required by a Master or by a member or an officer of Trinity House (this situation still prevails, vide subsec. 329(f)(v) C.S.A.).

From the legislative point of view, the period from 1850 to Confederation was marked by three main events:

- (a) replacing the Board of Commissioners which was responsible for improvements in the harbour of Montreal by the Corporation of Harbour Commissioners which acquired from Trinity House complete control over the harbour, except the pilotage service;
- (b) the Government taking over through the Commissioner of Public Works responsibility for improving the channel between the harbours of Quebec and Montreal;
- (c) the attempt to incorporate the Montreal pilots into a professional public corporation.



In 1850, the jurisdiction of the Commissioners for improvements in the harbour of Montreal was extended downriver to Lake St. Peter. They superseded the Lake St. Peter Commissioners and were requested to have the ship channel deepened at Isle Platte in order to provide a least depth of 16 feet at all times. The work was to be financed first by a loan and also by the imposition of light dues on all vessels drawing 10 feet of water and over, which passed through Lake St. Peter (13-14 Vic. c. 97). The following year, however, light dues were abolished in order to relieve the trade from the responsibility of maintaining aids to navigation. The cost of their erection and maintenance was to be borne in future by the public out of the Consolidated Revenue Fund (14-15 Vic. c. 52). In 1852, the Board of Commissioners responsible for improvements in the harbour became a new corporation called the "Harbour Commissioners of Montreal". The new corporation retained the rights and responsibilities of the former Commissioners for improving the harbour and the channel in Lake St. Peter but, in addition, was given all the authority that Trinity House of Montreal had hitherto exercised over the harbour of Montreal, except the administration of the pilotage service. Sec. 6 of the Act (16 Vic. c. 24) empowered the new corporation to make by-laws, *inter alia*, for the government, improvement and regulation of the harbour, the anchoring, mooring and securing of all vessels in the harbour, the regulation and control of the use of lights, fires on board vessels when lying at any wharf or other landing place, or in the stream of the said harbour. The task of supervising and managing the harbour was entrusted to a Harbour Master assisted by a Deputy Harbour Master. It was made the responsibility of the corporation "to mark out the Channel of the said River Saint Lawrence from the said Harbour through the deepened Channel of the said Lake Saint Peter down to the mouth of the River Richelieu . . ."

In 1855, it was felt necessary to reorganize the membership of the Harbour Commissioners' Corporation, which up to then had consisted of Government appointees only, to provide local representatives. By 18 Vic. c. 143, the 1852 Act was abrogated and replaced by a new Act to the same effect, except that the Corporation was composed of five members, three of whom were to be appointed by the Governor. The remaining two were the Mayor of the City of Montreal and the President of the Montreal Board of Trade *ex officio*.

These modifications must have been quite satisfactory because six years later, in 1858, the same reform was made at Quebec with the creation of the Quebec Harbour Commissioners' Corporation. Eventually, in Montreal as in Quebec, the Harbour Commissioners' Corporation superseded Trinity House altogether and assumed all its duties and responsibilities.

It must have been realized, however, that the required improvements to the ship channel between Montreal and Quebec were beyond the normal means and capacity of the Montreal Harbour Commissioners, and in 1864

(27-28 Vic. c. 12), the province assumed responsibility for the enterprise "under the control of the Commissioners of Public Works, to be completed and dealt with as public provincial works . . .", as well as for the indebtedness that the Harbour Commissioners had already incurred for that purpose. In 1865, the Harbour Commissioners were allowed to borrow 25,000 pounds to complete certain works that were in progress (29 Vic. c. 56).

In 1850, the pilots for and above the harbour of Quebec, realizing "the growing importance of their profession, and the necessity which exists that the persons exercising it should be properly qualified, both as regards their moral character and education and their professional ability", petitioned the legislature to be incorporated in a public professional organization as the best way to promote these objects. 13-14 Vic. c. 123 (Ex. 1470(e)) partly granted the pilots' request and a public corporation called "The Corporation of the Pilots for and above the Harbour of Quebec" was created. Its compulsory membership comprised all persons licensed as pilots for the District ("not suspended or deprived of their branches, and contributing to the Montreal Decayed Pilots' Fund"). The Corporation had the power to own real estate and personal property in the amounts fixed in the Act. Its meetings had to be held in Montreal and it was to be administered by a Council of nine members elected annually. The Council was given power to make by-laws covering the management, regulation, appropriation and disposal of its affairs, property and business, the government of its members, the remuneration and functions of the Secretary-Treasurer, the imposition of penalties for breaches of the by-laws, provided that to have force and effect any by-law should not be contrary to the laws of Lower Canada or the by-laws of Trinity House then in force and must have received the approval of Trinity House (which could require the Council to call a general meeting of the members to obtain their opinion on the proposed by-law before confirming or refusing it). In the event of a refusal by Trinity House to confirm a proposed by-law, the grounds for their decision had to be forwarded in writing. An automatic approval followed if Trinity House failed to act within 10 days after receipt of the proposed by-law. All meetings of the Council and their minutes were open to all members of both the Corporation and Trinity House.

This Corporation differed materially from the Corporation which the Quebec pilots were granted ten years later in that it was a strictly professional organization that had nothing to do with the actual management of the pilotage service. The Act did not give the Montreal Pilots' Corporation the right to manage the provision of services or direct the despatching of pilots, and the exercise of their profession continued to be on a competitive basis. The Corporation had no control over pilots' earnings, which did not become the earnings of the Corporation; therefore, it had no right to impose and enforce a pooling system. In addition, the legislature imposed conditions that did

not please the pilots, i.e., all the meetings had to be held in Montreal and Trinity House had the right of veto.

There is no doubt that the powers granted were less than those the pilots had petitioned for and they were so dissatisfied that they refused to hold the first meeting of the Corporation which, according to the Act, had to take place October 1, 1851.

The pilots made a further petition to the legislature to have the Act of incorporation amended. In 1853, 16 Vic. c. 258 amended the Act, but only with regard to penalties and to allow meetings to be held either in Quebec or Montreal (at that time most of the pilots lived in Quebec since it was the boarding station for the Montreal section of the St. Lawrence). However, Trinity House retained its powers of veto. The amendment did not satisfy the pilots who found no personal or professional advantage in a corporation with such limited powers under the guardianship of Trinity House. They again refused to hold the necessary first meeting to elect the Council and the Corporation, therefore, never became active (Ex. 1456(e)).

No legislation abrogating the 1850 Act has been found. If it was never repealed, as appears to be the case, the Corporation still exists, all the pilots of the Montreal District belong to that Corporation and it would be sufficient to convene a meeting as provided in the Act, attended by at least 9 pilots, and to elect a Council whose decisions (if *intra vires* of the Corporation's powers) would then become binding on all pilots licensed for and above the harbour of Quebec.

Since Trinity House was by law responsible for the safety of navigation in the section of the River under its jurisdiction and was also responsible for the management and efficient operation of the harbour of Montreal and the other harbours in the District, its by-laws were a combination of rule of the road and regulations governing traffic, protection of channels and wharf installations, as well as the organization and provision of pilotage services. The by-laws drawn up by Montreal Trinity House March 20, 1851, and sanctioned and approved by the Governor General in Council April 2, 1851 (Ex. 1470(g)) are an example of this type of legislation. These regulations consist of 95 sections which are in essence a complete merchant marine code for that section of the St. Lawrence River. Apart from pilotage, they deal, *inter alia*, with anchoring and mooring vessels in the harbour or Port of Montreal; various duties of a Master, such as being obliged "to make the necessary signals" when he is "notified by the Pilot on board that another vessel then in sight is approaching any shoal, or any other cause of danger"; the rule of the road, such as that all vessels shall in meeting take the starboard side "provided always, that vessels entering or leaving the Harbour of Sorel, shall take the



larboard<sup>2</sup> side"; ballast, coals, cinders, rubbish, etc.; the identification of vessels obstructing navigation and interfering with the harbour Master; the lights steam vessels should carry at night whether under way or at anchor; navigation on the Richelieu River and in the harbour of Sorel; the landing of gun powder; land transportation on harbour property. The word "vessel" was defined as comprehending and meaning every description of floating vessel and the term *Harbour Master* meant the Captain of the Port of Montreal.

The "Regulations respecting pilots" are secs. 49 to 67 inclusive. Their main features are:

- (a) Although self-employed, the pilot had no choice whether or not to accept an assignment when required by the Harbour Master or an officer of Trinity House to take charge of any vessel which needed a pilot, unless he was already engaged, or when required by a requisition signed by an officer of Trinity House to "repair on board, and take charge of any vessel of any denomination in Her Majesty's service, or in the Provincial service . . .", or, when he had accepted, to take an assignment.
- (b) The pilot had to report to Trinity House when he arrived in Montreal from an upbound trip and before he left Montreal on a downbound trip. At Quebec, he was obliged to remain with the ship for 48 hours after arrival and at Montreal he had to remain on board 48 hours after the vessel had arrived in the stream opposite the harbour and one hour after the vessel had been secured to or alongside any wharf.
- (c) The non-performance of pilotage during two full consecutive years (except in case of sickness or unavoidable absence or with special permission) rendered the pilot liable to a penalty of ten pounds and a further similar penalty for every additional year in which he did not perform pilotage. The pilot could avoid paying the penalty by resigning.
- (d) The fees for movages within the Montreal harbour limits, including the wharves in the Lachine Canal, were fixed in the by-laws.
- (e) The by-laws also made it an offence for a pilot:
  - (i) to lend or "in any manner to dispossess himself of his Branch";
  - (ii) to take charge of any vessel as a pilot, otherwise than as his Branch empowered him;

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<sup>2</sup> Larboard is the old word for port. Sec. 24 of the by-law reversed for Sorel the rule which obtained in the remainder of the District. This reversal appears to have been for safety reasons to permit vessels to meet local conditions more effectively. At that time, traffic consisted of sailing ships faced with an outflowing river and adverse currents and lacking any power of propulsion other than the wind.

- (iii) to fail to carry with him a copy of the by-laws in English and in French and to exhibit them if required to the Master;
  - (iv) to disobey any summons of the Corporation of Trinity House;
  - (v) to fail to warn another ship of danger and to fail to report alterations in sand banks, channels or buoys;
  - (vi) to demand or receive "any higher or greater sum for the pilotage of a vessel" than was allowed by law.
- (f) Finally there was a general disciplinary clause which read as follows:

"Section 65. That any Pilot who shall behave himself uncivilly, or not be strictly temperate and sober whilst in the exercise of the duties of his office, or who shall not use his utmost care and diligence for the safe conduct of every ship or vessel, (whether in tow of a Steam-vessel or not) while under his charge, or who shall not use his utmost care to prevent her from doing damage to others, shall for each and every such offence incur and pay a penalty not exceeding ten pounds."

In 1857, by 20 Vic. c. 128, Parliament delegated some of its legislative powers over the pilotage service, which it had retained by authorizing Trinity House to fix all pilotage rates by by-law, subject to the approval of the Governor in Council. Up to that time, the rates (except for movages) were fixed in the Act and the Act had to be amended each time the tariff was changed. It was made mandatory for shipowners to pay full pilotage fees in case of cancellation, unless there was a complaint against the pilot. Free detention time was reduced to 24 hours after mooring.

As seen earlier, the pilots practised their profession under the free enterprise system and it was normal for them to compete for clients. The Montreal pilots did not have to provide a pilot boat and, contrary to the procedure in the District of Quebec, a pilot was not entitled to the pilotage of a ship when he was the first to hail her at the boarding station because no compulsory system existed and the Master was at liberty to employ a pilot or not. The Master's obligation was limited to employing a licensed pilot if he engaged one at all. Since pilots were normally engaged ashore, a Master was at liberty to take a pilot of his choice from those not otherwise on duty, and the pilots, although they were self-employed, had to make themselves available when not on duty and had no right to refuse once they were chosen.

Great difficulty was experienced following these rules and in 1864 (27-28 Vic. c.58) a system of control over the availability of pilots was established. All pilots on their arrival in Montreal had to report to the Registrar of Trinity House and to indicate their place of residence; the Registrar was to keep a record in a register of "the names and residence in Montreal of all such Branch Pilots as shall so report themselves, from

amongst whom it shall be competent for all Shipmasters and others requiring Branch Pilots to select such Pilot or Pilots as they may think fit, other than those actually engaged to pilot the Ocean Mail Steamers or any of them, and to indicate to the said Registrar the name or names of such Pilot or Pilots as they may so select." Once the selection was approved by Trinity House the pilot concerned was to be considered to all intents and purposes engaged and it was a statutory offence for him to refuse to pilot a vessel when so engaged, except for reasons of safety of the ship or for other just and sufficient cause. The same Act updated apprenticeship training. Three of the five years' apprenticeship could now be spent on board a steamer (instead of a sailing vessel) engaged in towing sea-going vessels, and at the end of the five years the apprentice was to perform at least six trips in sailing vessels under not fewer than three different branch pilots. In addition, the candidate had to complete at least one voyage before the mast in a sailing vessel to and from Europe.

The 1864 Act established compulsory pilotage in the District of Montreal for vessels over 125 tons from outside the province, the penalty being an amount equal to the pilotage dues which was to be paid into the Decayed Pilot Fund.

At that time, the pilots had no organization or agreement among themselves, with the result that there was keen competition for clients. They tried by every means to be the first to offer their services and, in the process, some of them went downriver from Quebec (even as far as the Gulf) in boats or tugs to meet vessels and steamers. Because of this ruinous competition they decided in 1870 to establish a control over the provision of services and to form an association for that purpose. Their main obstacle was the existence of the special pilot system which made it impossible to operate a true *tour de rôle*, with the consequence that the work could not be equitably shared. Furthermore, the special pilots enjoyed an undue advantage over their colleagues in that the mere fact of having been chosen by regular lines was considered by perspective clients as recognition of their qualifications. Therefore, the special pilots were unwilling to join a roster system unless certain privileges were granted to them. An agreement was reached after three years of discussion. In 1873, the pilots elected a committee of five members to attend to their general interests. An agent, chosen and paid by them, was also instructed to assign pilots at Quebec in accordance with a *tour de rôle* system. The committee was to be elected every year at a general meeting of the pilots (*Le pilotage du Saint-Laurent de Québec à Montréal*, Ex. 1456(e)). This marked the end of the free enterprise system.

The first pilotage legislation passed after Confederation, the Pilotage Act of 1873, 36 Vic. c. 54, did not substantially modify the legal position as far as pilotage in Montreal was concerned. Very little of the previous legislation pertaining to the Montreal District was abrogated and where this happened it



was because the provisions had been embodied in the new Pilotage Act. The Act repealed that part of the Montreal Trinity House Act (12 Vic. c. 117) relating to the exemption granted to vessels trading between Quebec and Montreal only from taking a licensed pilot when the services of a pilot were needed (sec. 21) and the applicable rates (sec. 23). It also repealed the 1850 Act (13-14 Vic. c. 95), which had introduced an exemption in favour of local traders (vide p. 586) as well as the 1864 Act (27-28 Vic. c. 58) dealing with the right of the Master to choose a pilot from those available, the obligation of a pilot not otherwise engaged to accept when chosen, and also with apprenticeship and compulsory pilotage. All these topics were covered in the new Act.

The specific provisions regarding the Montreal Pilotage District are:

- (a) By way of exception, as for the District of Quebec, Parliament retained the power to appoint the Montreal Pilotage Authority. Through sec. 6 of the Pilotage Act, it appointed the Montreal Harbour Commissioners as the Pilotage Authority of the newly formed federal Pilotage District of Montreal in lieu of Montreal Trinity House, and vested in them all the powers that had up to then been enjoyed by Montreal Trinity House. By a concurrent but separate Act (36 Vic. c. 61) Montreal Trinity House was dissolved and its powers over the Port of Montreal were also vested in the Harbour Commissioners who then became Harbour, Port and Pilotage Authority, all at the same time, as Trinity House had originally been. The assets that were not specifically transferred to the Harbour Commissioners were vested in the Crown through the Minister of the newly formed Department of Marine and Fisheries. The constitution of the Harbour Commissioners' Corporation was amended to allow more representation from local interests: it was to be composed of nine members, four of whom were appointed by the Governor and the remaining five elected, two by the Montreal Board of Trade, one by the Montreal Corn Exchange Association, one by the Montreal City Council, and one by the shipping interests. The buoys and beacons within the Port of Montreal were to be placed and maintained by the Corporation at its own expense. By further legislation passed at the same session, the constitution of the Quebec Harbour Commissioners superseded Quebec Trinity House. By another Act passed at the same session (36 Vic. c. 55) the powers that both Trinity Houses had with regard to salvage and wrecks were abrogated and the office of Receiver of Wrecks (Wreck Commissioner) was created. Therefore, this former power of Trinity House did not pass to the Montreal Harbour Commissioners.

- (b) However, in its definition of the District limits the Act failed to distinguish between the territorial jurisdiction of the Harbour Commissioners as Port Authority and as Pilotage Authority. It gave the Pilotage District the same limits as the Port, i.e., from the basin of Portneuf exclusively to the Quebec-Ontario boundary line, but extended their pilotage jurisdiction over the pilots for and above the harbour of Quebec and the services they performed to "that part also of the pilotage District of Quebec comprising the River Saint Lawrence, between Saint Patrick's Hole and the basin of Portneuf" (sec. 6). This remained until it was corrected by sec. 313 of the 1934 C.S.A.
- (c) The Montreal Pilotage Authority (together with those of Halifax, Saint John and Quebec) was deprived of the right to certify Masters and mates to act as pilots (subsec. 18(4) and sec. 65).
- (d) The general provisions concerning the creation by by-law of a Pilot Fund did not apply (subsec 18(12)), since one had already been created by Parliament and was still in operation, i.e., the Decayed Pilot Fund for the Montreal pilots. Its existence was recognized by sec. 80 which made it compulsory for the pilots to continue to contribute. The amount of the contribution was fixed at 5 per cent but the Montreal Harbour Commissioners were authorized to vary the amount of the contribution by by-law within a maximum of 7 per cent of the gross revenue.
- (e) The overlapping jurisdiction in Quebec harbour was limited by sec. 49 which provided that the Montreal pilots could take charge of a vessel in the harbour of Quebec, provided it was bound upstream, but movages had to be performed by a Quebec pilot.
- (f) The Act provided for the compulsory payment of pilotage dues in the District of Montreal (with the Districts of Quebec, Halifax and Saint John (sec. 57)). The right of exempt vessels to hire non-licenced pilots was abrogated.

In 1879 (42 Vic. c. 25), the Montreal Pilotage Authority was granted the unusual power to issue a second class pilotage licence to such indentured apprentices as might be found competent to perform a limited or subordinate class of pilotage duties. This licence was to remain in force until the holder became fully qualified. A special tariff was to be established for the services of these second class pilots and it was provided that "the employment of a pilot holding a second class licence shall not be compulsory."

The quorum for the Harbour Commissioners when sitting as Pilotage Authority was reduced to three in 1880 (48 Vic. c. 31).

In 1882, an amendment to the Pilotage Act (45 Vic. c. 32) authorized the various Pilotage Authorities to limit the duration of a pilot's licence to

any term not less than two years. The Act specified, however, that this power was not extended to Quebec, Montreal and Saint John, N.B.

As seen earlier, the pilots had formed what they called a "tour de rôle association" which was directed by a five-member committee and they had appointed an agent to despatch the Montreal pilots in the harbour of Quebec. In 1878, the Pilotage Authority assumed the operating costs of the despatching office in Quebec and the pilots' agent became an employee of the Pilotage Authority (Ex. 1456(e)).

At the general meeting of the pilots in 1881 they decided to make a new petition to the Government for the incorporation of their tour de rôle association. The project was strongly opposed both by the Pilotage Authority and the shipowners. The pilots convened at Montreal and after long discussions a compromise was reached. The pilots agreed to abandon their petition on the following conditions:

- (a) The Pilotage Authority would recognize the pilots' tour de rôle committee and would implement the by-laws the committee adopted.
- (b) The apprenticeship system would be modified in accordance with the proposal made by the pilots' committee.
- (c) The number of pilots would be limited to 45 until the pilotage demand increased.

Apparently, the Pilotage Authority had agreed to more than it could do or wished to do; the pilots became dissatisfied and in 1884 renewed their petition for incorporation. It has been said that they had to fight against powerful, tenacious enemies and the Bill was defeated at first reading (Ex. 1456(e)).

In 1885, the Harbour Commissioners refused to continue paying the cost of administering the pilotage service from their own revenues and imposed a 2 per cent levy from the pilotage revenues to finance their pilotage expenses. The pilots contended that through this levy the Harbour Commissioners made a net profit of about \$800 to \$900 a year and argued that, since they were paying the despatcher's salary, he ought to be their employee, as he had been previously. They also insisted on having a representative of their own on the Board of the Harbour Commissioners' Corporation simply to avoid the considerable expense they had to incur every year to safeguard their threatened interests (Ex. 1456(e)).

When the Pilotage Act was consolidated in 1886, no change was made in the special provisions that applied to the Montreal Pilotage District.

In 1894, when the Montreal Harbour Commissioners Act was amended and consolidated, the pilotage organization was not changed. The Corporation membership was raised to 11 Commissioners, six appointed by the



Governor in Council. The Mayor of the City of Montreal was a Commissioner *ex officio*, and four Commissioners were to be elected, one by the Montreal Board of Trade, one by the Montreal Corn Exchange Association, one by *La Chambre de Commerce du District de Montréal*, and one by the shipping interests. When acting as Pilotage Authority, the Commissioners' quorum was six, but its judicial powers could be delegated to any three Commissioners. As for the powers of the Commissioners as Pilotage Authority, the Act merely referred to the Pilotage Act. Their judicial powers over all pilotage matters were reaffirmed as was the Corporation's authority to enact the necessary by-laws to exercise these powers.

The number of regular shipping lines had increased; consequently, the number of special pilots they hired also increased but the number of tour de rôle pilots decreased as did the number of ships not employing special pilots. The income derived from the tour de rôle became much less than that earned by the pilots of the regular lines and the tour de rôle pilots reacted by demanding a more equitable share of pilotage revenues.

In 1896, the pilots again sought incorporation in order to put an end to the resultant disputes. The Bill they presented to Parliament (Bill No. 67, 1897, Ex. 1470(f)) proposed the creation of a corporation which would be authorized to manage and direct its members in the exercise of pilotage as a profession, to treat their earnings as corporation revenues, to control despatching and pooling and to maintain discipline. Membership was not to be compulsory but the Directors were to have powers over the appointment of pilots and apprentices. The loss or suspension of a pilot's licence would result in the automatic loss or suspension of his membership. The corporation President was to become *ex officio* a member of the Montreal Pilotage authority for all matters concerning pilotage. The by-laws of the corporation were to be subject to the approval of the Pilotage Authority which would have power to quash and annul them in whole or in part during a period of one month after their submission for approval. The right of the Master to choose his pilot was to be preserved but the choice would have to be made from lists of all pilots available for duty which were to be kept for this purpose both at Quebec and Montreal.

The proposed corporation was a considerably modified version of the corporation authorized for the Quebec pilots in 1860. It was to replace, with increased powers, the tour de rôle association the Montreal pilots had formed in 1870.

This time, despite strong opposition from the same quarters, the Bill was adopted by the Commons but was defeated in the Senate June 18, 1897, on the advice of the Committee on Railways, Telegraphs and Harbours which recommended no further action on the ground of public interest. The pilots then went on strike.

Pilot Cléophas Auger, the President of the Montreal Pilots' Committee, in an article which he wrote in 1900 (Ex. 1456(e)) in which he relates the events of those days states that the pilots, discouraged by lack of success in their efforts to obtain their incorporation, seeing the situation worse than ever and believing that a change was needed in the interests of the shipping industry as well as their own, went on strike June 18, 1897. The pilots returned to work only when the Minister of Marine and Fisheries set up a Commission of Inquiry to study their grievances.

The circumstances which led to the strike are summed up in the first paragraph of the convening order of the Commission of Inquiry (Order in Council dated Jan. 11, 1898. (Ex.1470(k))):

"On a Report, dated 8th January, 1898, from the Minister of Marine and Fisheries, stating that for some time past the pilots serving in the district of Montreal have been pressing for incorporation and an extension of their privileges as pilots, and, during the late Session of Parliament a Bill was introduced by Mr. Guay, M.P., providing for incorporation and giving the pilots the management of their affairs, the making of by-laws for maintenance of discipline and other provisions. This Bill was strenuously opposed by the shipping interests of Montreal and by the Harbour Commissioners, who are the legally constituted pilotage authority for the district, but the Bill after having been considered in Committee, and amended, passed its Third Reading in the House of Commons, but was rejected by the Senate. As a consequence of this rejection of the Bill, the pilots, on the 18th June, 1897, refused to pilot any vessels, or to exercise their profession, unless incorporated, thereby causing inconvenience and delay to shipping. After remaining on strike for a week or so, the pilots resumed work, on the assurances given by the Minister of Marine and Fisheries, that the Government would make it a duty to investigate their alleged grievances during the recess."

The Board of Inquiry was composed of three members, Mr. Justice J. Lavergne of Ottawa, Major F. Gourdeau, Deputy Minister of Marine and Fisheries and Commander W. Wakeham, M.D., also of Ottawa.

The Commission recommended against the incorporation that would give the pilots the power they sought, partly because of their relatively small number which it was considered should be further reduced but especially because the Commission thought there were other more adequate ways of giving the pilots the voice they wanted in pilotage affairs.

While finding that when the Harbour Commissioners sat as a court they did not take unfair advantage of pilots who appeared before them for trial in that the assistance of counsel was permitted and expert evidence (including the opinions of pilots) was sought; they considered that the method adopted was not the best. They recommended that pilots involved in shipping casualties should appear before a Marine Court composed of three experts—one chosen by the Pilotage Authority, the second by the pilots (though not a pilot in active service in the Montreal District) and the third by the Minister. If a Court of Admiralty were established in Montreal, "these trials should take place before such a judge, assisted by two nautical assessors."

To give the pilots the required representation, the Commission proposed there be one pilot representative on the Board of the Pilotage Authority. They suggested that the pilots select annually among themselves two pilots for that purpose, one to form part of the Board when sitting on matters affecting pilots, the other being a substitute to ensure constant availability of a pilot representative.

The pilots had asked that their number be further limited, while the shipping interests had recommended that anyone be allowed to become a pilot if he could pass the necessary examination, that the pilots be truly free entrepreneurs and that the shipping interests have unhampered freedom of choice. The Commission found that the number of pilots had never proved insufficient and that the contrary was, in fact, the case. It remarked that strikes could take place just as easily with a large number of discontented underpaid pilots and would actually be less likely with a limited number of well-paid men. It further remarked that while the pilots were in the position of employees performing their duties under the Pilotage Authority there would seem to be no reason why their numbers should not be limited. They found that the number of pilots was then at least three times larger than necessary. If they were more numerous and their work more divided, their efficiency would suffer from lack of practice. They recommended that the number of pilots be limited to fifty.

As for apprenticeship, they agreed that the stipulated requirements were no longer suitable to provide adequate training but left it to the Pilotage Authority together with the pilots to devise new rules. With the disappearance of sailing ships, the traffic pattern on the River had gradually changed but the apprenticeship programme which was based on it had not been modified. Formerly, the apprentices learned the River on board tow boats navigating between Montreal and Quebec towing sailing vessels. On board they became acquainted with leading marks, lights and currents, so that when finally taken in charge by a regular pilot during their two final years of apprenticeship they were already quite familiar with the River. The opportunity for employment in tow boats had passed with the disappearance of sailing vessels. For the same reason, they recommended that the requirement that one of the three foreign-going voyages apprentices were required to make during the winter be in sailing ships be deleted but that the three-voyage requirement be retained.

In addition, the Commission made a number of recommendations regarding improvements to the ship channel, such as erecting permanent landmarks, marking the sides of the channel with buoys of different shape and colour, lighting the channel so as to permit night navigation, making regular sweeps of the channel and removing obstructions which endangered navigation, widening the channel from 500 to 600 feet in straight cuts and to not less than 700 feet in the bends, deepening it to 30 feet with an increased



depth of 2 feet in the bends (pointing out that the flat-bottomed ships of the type that had come into use on the St. Lawrence drew considerably more water when rounding a bend than when on an even keel) and straightening the bends to the extent possible so as to allow longer ships to round them easily (62 Vic., Sessional Papers (No. 11) A.1889) (Ex. 1470(k)).

The pilots were satisfied with the way the inquiry was conducted. Pilot Auger wrote that all interested parties were fully represented and took advantage of the opportunity to express their opinions fully and discuss them thoroughly. He added that the pilots were also satisfied with the report of the Commission and with the proposed amendments to the Pilotage Act which was before Parliament for adoption when he wrote his article. The pilots had noted with satisfaction that the inquiry had already borne fruit in that soundings had been taken, the channel had been cleared of obstructions and the buoys checked. He added that the "Pilotage Court" which the Minister of Marine intended to establish at Montreal and the amendments that were to be made in the Harbour Commissioners' By-laws would certainly provide an adequate remedy for all difficulties.

Pilot Auger summed up the situation as follows (translation):

"For several years the pilots were forced to fight to keep their tariff. Constant efforts were made to lower it.

They worked in vain to obtain agreement that one of their number should represent them on the Pilotage Commission as was done elsewhere, even in ports much less important than Montreal.

The pilots also struggled without success to establish that buoys would be laid in accordance with their recommendations and requirements and not on the advice of persons who, although doubtless interested in the subject, contributed more good will than practical knowledge.

All these disagreements between the pilots on one hand and the Harbour Commissioners and the shipping interests on the other can be attributed to several causes, the main ones being:

Up to 1874, the pilots came under Trinity House and, hence, were represented by the Superintendent of Pilots (sic) (actually Captain of the Port) who, at the same time, was inspector of lighthouses and buoys. The buoys were also laid by a pilot. Because each individual was responsible for his own duties, the pilots were punished only for their errors and blunders.

When the Pilotage Authority was entrusted to the Harbour Commissioners, the Superintendent of Pilots was made their paid employee and his work became so unimportant that when he retired it was not considered advisable to replace him. A civil engineer was given the responsibility for laying buoys. Unquestionably he was eminently qualified in his profession but he was not a pilot. Because the number of

buoys increased proportionately as the canal progressed, it developed that this officer found himself unable to position or replace them in good time, although many were indispensable. If an accident occurred, the poor pilot appeared without counsel before the Harbour Commissioners (who were at one and the same time judges and parties to the case because they were themselves responsible for cutting the canal and placing buoys) and invariably was found guilty.

For their part, the pilots increased their number out of all proportion to the work they had to do and were forced into bitter competition. Frequently they had to yield to unreasonable demands by agents for ships or tugs in order to make a living for their families. They lost much of their prestige and the authority which is essential for any person who has command of a vessel.

What was needed to avoid unfortunate consequences for Montreal was a strong, competent administration based on practical knowledge of navigation which, while subjecting the pilots to strict discipline, would have kept their position commensurate with their importance to maritime trade.

But the Pilotage Commission did not see it that way. The Commissioners, all business men whose reputation in the business world was unquestioned but whose experience in navigation and pilotage was almost nil, always denied the pilots the right to have their say in questions that concerned them exclusively . . . ”

In the years which followed, radical changes were made in the administration of pilotage in the Montreal District. The first legislative change was the creation in 1900 of the Montreal Pilots Court (63-64 Vic. c. 36). The Court was presided over by a Commissioner with at least seven years' experience as a lawyer. He was assisted in the performance of his duties by assessors to be appointed annually, some by the pilots and some by the Pilotage Authority. The judicial powers of the Harbour Commissioners were withdrawn and transferred to the Pilots Court which had jurisdiction over all complaints against any pilots for any offence committed against the provisions of the Pilotage Act or any regulations made thereunder, whether or not there had been a shipping casualty. In addition, the Court was given the power that had been enjoyed by the Harbour Commissioners as Pilotage Authority to inquire into the conduct of pilots, whether or not a complaint had been received. No appeal was provided. It was stipulated that, in the event of the appointment of a local Judge in Admiralty of the Exchequer Court at Montreal, the Pilots Court would cease to exist and all its powers and jurisdiction would be transferred to the Exchequer Court of Canada (Admiralty side).

Three years later, in 1903, Parliament, in an unprecedented move, appointed the Minister of Marine and Fisheries as Pilotage Authority for the District of Montréal in lieu of the Montreal Harbour Commissioners with all the powers they had up to then enjoyed as Pilotage Authority (3 Ed. VII c. 48). It is worth noting that no proviso was added with regard to the judiciary function of the Pilotage Authority as was included in a corresponding amendment to the Pilotage Act in 1904 and to the Quebec Harbour Commissioners Act in 1905. This was because the Pilotage Authority in Montreal at that time no longer held any judiciary powers.

On that occasion, the Minister inherited from the Montreal Harbour Commissioners the trusteeship of the Montreal Decayed Pilot Fund because, contrary to what had occurred in Quebec, when Montreal Trinity House was abolished this trusteeship was passed to the Harbour Commissioners along with the other powers, there being no active pilots' corporation.

An amendment to the Montreal Harbour Commissioners Act in 1909 (8-9 Ed. VII c. 24) placed the "Port of Montreal" under the jurisdiction and control of the Minister of Marine and Fisheries. The expression "Port of Montreal" was redefined to exclude the harbour of Montreal.

The 1906 Canada Shipping Act was merely a consolidation as far as the legislation governing the Pilotage District of Montreal was concerned.

On September 29, 1911 (Ex. 1470(i)) a new set of by-laws, was approved. The principal features were:

- (a) The local representatives of the Minister as Pilotage Authority were a Superintendent at Montreal and an Assistant Superintendent at Quebec with a mandate to manage the service and to carry out the Authority's orders.
- (b) A Pilots' Committee became the liaison between the Authority and the individual pilots.
- (c) The number of pilots was left to be determined administratively by the Authority and pilots continued to be recruited through an apprenticeship system. The apprentices, whose number was not to exceed seven, were chosen in order of seniority from a list of applicants and had to serve a five-year apprenticeship. At the end of the five years, the apprentice had to pass an examination before the Board of Examiners and, if found qualified, his name was entered on a list "as qualified to receive his Branch wherever a vacancy occurs . . ."
- (d) Licences were permanent except that they lapsed automatically when the pilots reached sixty-five years of age. Temporary licences were issued thereafter from year to year as long as the pilots remained fit and competent.



- (e) Neither the Pilotage Authority nor the Superintendent was provided with any judiciary power, but the Act contained a code of discipline.
- (f) Provision was made for investigating complaints about the capacity and fitness of pilots and settling disputes between Masters and pilots.
- (g) Except for special pilots, pilots were to be assigned to duty by the Superintendent and the Assistant Superintendent in a rotation system that to a certain extent preserved the right of a Master to choose his pilot. For each assignment, the Master was given the three first names on the list from which he made his choice. The Superintendent or the Assistant Superintendent had to "satisfy himself that the selected pilot has not, directly or indirectly, used any influence to secure himself such pilotage."
- (h) In case of a shipping casualty, a preventive suspension could be imposed following an informal inquiry that found that the pilot was the cause of the accident. The preventive suspension was to last until a formal investigation had been held but was not to exceed three days unless the Minister gave notice that a formal investigation would be held. This was a power belonging to the Pilotage Authority distinct from the similar power that could be exercised by the officer appointed by the Minister, as such, under Part X of the 1906 Act (sec. 777) to perform a preliminary inquiry.

*Lindsay Commission, 1913.* As seen in the Quebec District, *History of Legislation*, the Lindsay Royal Commission was created mainly to study the serious and unsatisfactory state of affairs in the Quebec Pilotage District. It would appear that if the Montreal Pilotage District was included in the scope of the investigation of this Commission it was merely on account of the interrelation of the two pilotage services, since the Districts were, in fact, two parts of a single operation. The section of the Report dealing with the Montreal District was very brief and indicated that both the administration and the discipline of pilots were satisfactory. The only unfavourable comment concerned the qualifications and competency of the officer-in-charge of the Quebec despatching office (no doubt the Assistant Superintendent). The Commission found him thoroughly incompetent, so much so that they felt it necessary to make an Interim Report on him. They also found that the location of the Quebec pilots' office "above a bar-room, and having a door leading directly into that place" was not desirable and that it should be moved.

They noted that the change in Pilotage Authority from the Montreal Harbour Commissioners to the Minister had been a complete success, which was in sharp contrast to the state of affairs that prevailed in Quebec.

They made reference to the recommendation of the representatives of the lake carriers that apprentices should be issued licences as second class pilots and "attached to their boats as members of the crew when they required them", but noted that all the pilots were not in favour of the suggestion because "they were afraid it would lower the standard of qualifications and experience and be a handicap to the tour de rôle pilots." The Commission did not take a position on the matter.

The Commission tried to improve the apprentices' lot by suggesting various ways of shortening the period of apprenticeship and of giving them an opportunity to earn a living each season, e.g., by obtaining employment on vessels on the River as second pilots or by being employed in Government vessels.

In order to reduce the disparity between special and tour de rôle pilots in workload and earnings, they suggested modifying the special pilot system to make a pilot available to more than one line in order to enable him to make the same number of trips per season as the tour de rôle pilots. On the other hand, they felt that a line with only one vessel a month should not be allowed to engage a special pilot unless he was shared with another line.

The Commission was convinced that some increase in the tariff was necessary. In order to bring in more revenue, they suggested that the increase be borne only by ocean-going vessels and that certain exemptions in the Montreal District should be abolished (Ex. 1325).

On April 29, 1915, a new set of by-laws was approved by the Governor in Council (P.C. 902, Ex. 1470(h)) but it contained no material changes. The by-laws did not deal with the Commission's suggestion regarding the withdrawal of some exemptions, obviously because this would have required an amendment to the Act itself. The main changes were:

- (a) The list of qualified apprentices was abolished. Examinations were held only when a vacancy occurred and a permanent licence was issued to the first apprentice, according to the order of seniority, who passed the examination before the Board of Examiners.
- (b) Retirement at the age of 70 was made compulsory.
- (c) Agents or firms with only one vessel a month were denied the right to have a special pilot but they were allowed to share the services of one with another agent. Failing this, they were obliged to go to the tour de rôle when a pilot's services were required.
- (d) The tariff was not substantially altered but a minimum tariff was fixed at \$20 for a trip; the charge for a movage was \$5.
- (e) The system of disciplining pilots was not changed. Neither the Minister as Pilotage Authority nor the Superintendent was given any judiciary power. Offences and breaches of the by-laws by pilots had to be tried before a regular court. Upon such conviction,

however, the Pilotage Authority had the power to impose an additional punishment in the form of a suspension or withdrawal of the licence.

In 1916, various amendments of a minor nature were made to the By-laws and, *inter alia*, a new regulation concerning the collection of dues was passed merely to help the pilots. The Superintendent billed the shipping agent but payment was made direct to the pilot, except for the pension deduction which was paid to the Collector of Customs (P.C. 762 dated April 4, 1916, Ex. 1470(h)).

In 1918, the administration of the Montreal District came under the terms of reference of another Royal Commission, *the Robb Commission*. This Royal Commission was not prompted by any particular problem in either the Quebec or Montreal Pilotage Districts but was originally convened to investigate the pilotage situation in Halifax, Saint John and Sydney. Its mandate was eventually enlarged to include Montreal and Quebec and to deal with other matters. (Ex. 1456(t) and pp. 61 and ff.).

The Report is dated September 10, 1918. The part of the Report dealing with Montreal is very brief and again shows a very satisfactory state of affairs. Only two points were dealt with by the Commission: the movage rates and the pilots' request to pool their earnings. The Commission recommended changes in the movages tariff but rejected the pooling request.

The pilots' recommendation had resulted from the great discrepancy between the earnings of line pilots and tour de rôle pilots. The Commission attributed it to the special situation resulting from the war and pointed out that "the established lines' representatives are unanimous against any change in the distribution of the earnings, contending that it would interfere with the spirit of enterprise of the pilots in the Montreal District, who look forward to promotion from the 'tour de rôle' to the regular lines."

On December 27, 1918, thirty-three pilots grouped themselves into a professional partnership under the name of the "United Montreal Pilots". The main purposes of the Association were to pool their pilotage revenues and to look after and defend their professional interests. Other pilots could join by signing the partnership deed but no one could withdraw as long as he remained an active pilot, unless he was expelled. The Association was under the control of five Directors elected at the annual general meeting. The deed could be modified only by the written consent of 80% of the members and was not to come into force unless signed by two-thirds of the licensed pilots. Its duration was to be twenty-five years (Ex. 771(a)).

The signatures of over two-thirds of the licensed pilots were obtained and the contract became effective. At its expiration December 27, 1943, it was renewed for a further term of 25 years, but was allowed to expire December 27, 1968 (Ex. 1539(c)). The contract, amended from time to



time, provided for pooling Corporation expenses and for establishing the value of the turn by averaging. Each pilot received the pooled value for each turn he performed. Contrary to the Quebec pilots' system, the *movage dues* formed part of the pool but their value was arbitrarily fixed at \$10 for the purpose of sharing. Detention and cancellation did not form part of the pool and were paid in their entirety to the pilots concerned (Ex. 771).

In 1920, no doubt as a result of the strong stand taken by the Robb Commission with regard to the practice of pooling (*vide p. 63*), the District By-law was amended (P.C. 1444, dated June 29, 1920, Ex. 1470(h)) exactly as was done in Quebec to provide specifically that the Pilotage Authority was to collect all dues and to pay out, less the Pension Fund deduction, directly to each pilot the balance of the dues he had earned.

On September 16, 1927, a new set of by-laws was approved by the Governor in Council repealing all those previously in force. Its main provisions were (Ex. 1539(a)):

- (a) The 1920 amendment was retained. Pooling the pilots' earnings was not recognized by the Authority, the dues were collected by the Pilotage Authority which, after deducting the compulsory pension contribution, remitted to each pilot the balance of the dues he had earned.
- (b) A Pilots' Committee was provided to represent the pilots with the Authority.
- (c) Apprenticeship was retained but modified. The applicants became apprentices on the basis of seniority on a list. Each apprentice was obliged to obtain a Certificate of Competency not lower than that of mate coasting within three years of being licensed as apprentice and during that time he also had to do 30 trips per year on the River. When he obtained his Certificate of Competency he was called a senior apprentice and had to perform 50 trips per year. The minimum duration of apprenticeship was five years.
- (d) Temporary licences could be issued to senior apprentices in case of emergency.
- (e) A criterion was introduced (as in the Quebec District, p. 225) to determine the number of pilots, viz., 50 pilots for each 3,000 trips per annum.
- (f) The special service pilot system was continued. As before, the appointment was valid for one season only and the special pilot was obliged to do turns on the *tour de rôle* if so required in case of emergency.
- (g) Shipping casualties were to be investigated pursuant to the procedure laid down in Part X of the Act.

- (h) A Court of Inquiry procedure was provided to investigate complaints against pilots.
- (i) The Pilotage Authority assumed judiciary powers. The By-law purported to give the Superintendent the right to impose a fine of not more than \$40 for insubordination, misbehaviour, malingering, neglect of duty or breach of any section of the By-law, provided the pilot had been given the opportunity to be heard personally or in writing. In addition, the Pilotage Authority could "if he deems the evidence sufficient, fine, suspend or dismiss any pilot or apprentice for a continuing breach of these by-laws." Any pilot reported to be under the influence of intoxicating liquor or narcotic drugs when on duty or about to go on duty was to submit to a medical examination forthwith as ordered by the Superintendent and, if the report was confirmed, his licence was immediately suspended by the Superintendent. Upon receipt of the report, the Pilotage Authority could, in addition, impose a fine to a maximum of \$200 or suspend or cancel the licence.

These provisions regarding alleged judiciary powers, conflicted with the special provisions of the 1906 C.S.A. (which remained unchanged in the 1927 C.S.A.) for the District of Montreal which provided that offences and breaches of regulations committed by pilots had to be dealt with by the Montreal Pilots Court. According to the Act, the Minister as Pilotage Authority for the Montreal District had only the powers that were enjoyed by the Montreal Harbour Commissioners as Pilotage Authority as of October 24, 1903 (sec. 397, 1927 C.S.A.; sec. 415, 1906 C.S.A.). At that time, the Montreal Harbour Commissioners had been stripped of all their judicial powers with regard to pilots and pilotage when the Montreal Pilots Court was created in 1900 and, therefore, as far as the Montreal District was concerned the Minister could not exercise any judicial powers nor could he delegate powers that he did not have. This is why a proviso to that effect was not included in the 1903 Act which appointed the Minister as Pilotage Authority for the District of Montreal, as was done in the 1904 amendment to the Pilotage Act affecting the other Districts and the 1905 amendment dealing with the Quebec Harbour Commissioners. This exercise of judiciary powers by the Pilotage Authority and the Superintendent was, therefore, illegal and ultra vires, as was pointed out by the Minister of Transport in 1936 during the debate on the proposed amendment to the 1934 Canada Shipping Act on the subject of legislative provisions for the discipline of pilots (Part I, pp. 373 and ff.).

The situation in the Quebec District was quite different. The institution of the Pilotage Authority as a court of record had disappeared when the Minister became Pilotage Authority, but it was provided in the Act that such

powers were to be exercised by those he would appoint for the purpose (this provision was repealed by the 1934 C.S.A.). Hence, granting powers of punishment to the Superintendent in the Quebec By-law could be construed as such a delegation of power.

When the Montreal pilots were in the joint territory of both Districts, i.e., the harbour of Quebec, they came under the disciplinary authority of the Quebec Superintendent and also had the benefit of the right of appeal against his decision to the Superior Court of Quebec as provided for in the Canada Shipping Act (sec. 538, 1927 C.S.A., and sec. 558, 1906 C.S.A.).

Sec. 538 began with these words "in the Pilotage District of Quebec, any pilot shall have the right to appeal to the Superior Court of the province of Quebec from any judgment rendered against him by any tribunal or officer designated by the Minister under the authority of this Part for the trial of any offence . . ." In the Gariépy case these provisions were interpreted by the Quebec Court of Appeal to apply to the Montreal pilots when they were in the joint territory and when they were tried by the Superintendent for the District of Quebec (vide Court of King's Bench judgment, Hamel and Gariépy, (1937) 62 K.B. 459) (Part I, pp. 240, 323, 399 and Gen. Rec. 9).

The consolidation of the Canada Shipping Act in 1927 made no changes in the Montreal District except that the prohibition in the Quebec, Montreal and Saint John, N.B., Districts against issuing licences for a limited duration was cancelled. This privilege was extended to all Districts (sec. 434). The status of the Montreal Pilots Court was not changed.

In 1930, the Department of Marine and Fisheries was abolished and the Minister of the new Department of Marine superseded the previous Minister, *inter alia*, as Pilotage Authority for the District of Montreal (20-21 Geo. V c. 31).

The new Canada Shipping Act of 1934, however, brought about substantial changes. It abrogated most of the special provisions that concerned the Montreal District and put Montreal on the same footing as the other Districts as far as legislation and the power of its Authority were concerned. This meant that from then on the Minister as Pilotage Authority, had only the powers stipulated in the Canada Shipping Act for that function and not those that the Montreal Trinity House and Montreal Harbour Commissioners had enjoyed. Furthermore, the provisions dealing with the Montreal Pilots Court (and the eventual transfer of jurisdiction to the Exchequer Court, Admiralty side) were not retained in the new Act, thereby abolishing the Pilots Court. In future, the discipline of pilots in the Montreal District was to be dealt with according to the rules laid down in the Canada Shipping Act for all Districts (Part I, pp. 373 and ff.).

The Act retained, however, the statutory provisions regarding the existence of the District, the establishment of its limits and, conversely, the



appropriate restrictions on the powers of the Governor in Council in these matters (secs. 313, 314 and 315), but the provision appointing the Minister as Pilotage Authority was not retained, thus creating the ambiguous situation that prevails today (pp. 11 and 12).

The 1934 Act properly described the limits of the Pilotage District, omitting those that coincided with the limits of the Port of Montreal and which had no relevancy with the pilotage organization. The Pilotage District was defined as extending from the Lachine Canal exclusive and the harbour of Quebec inclusive. This definition has not been modified since, despite the fact that it no longer corresponds to reality at the western end of the District (pp. 627-629).

Apparently, through a lack of coordination in the modification of the previous statutory legislation, the payment of dues was not made compulsory for either the District of Quebec or Montreal (pp. 12-14).

The statutory restriction preventing the Montreal Pilotage Authority from granting a White Flag certificate was deleted; this could be done if provisions were made for it in the By-law, a situation which still prevails (Part I, p. 253). The Montreal Pilotage Authority never availed itself of this power. The special provisions regarding the Montreal Pilot Fund were abrogated and the general provisions on the matter were extended to the Montreal District.

The statutory provisions concerning the issuance of second class pilotage licences were repealed.

In 1936, the Department of Transport was created to replace the Department of Marine and its Minister became the Montreal District Pilotage Authority (I Ed. VIII c. 34).

The same year the National Harbours Board was created (I Ed. VIII c. 42) which took over responsibility for Montreal harbour from the Montreal Harbour Commissioners whose Act of incorporation was repealed.

From 1934 to date, the only amendments to the special statutory provisions for the District of Montreal have been the deletion from sec. 339 (now 347 C.S.A.) of the restriction preventing the Montreal Pilotage Authority from withdrawing relative statutory exemptions, and of subsec. 338(2) which made certain exemptions not applicable to Montreal. This did not change the legal situation since the compulsory payment system did not apply and could not be established in the District of Montreal any more than in the Quebec District. The amendment merely had the effect of deleting inoperative provisions.

Until then, subsec. 2 of sec. 338 of the 1934 Act could have provided a semblance of argument to prove indirectly the legal existence of the compulsory payment system for Montreal, in that this subsection, which modified the statutory exemptions from the payment of dues as far as the Montreal

District was concerned, would have been meaningless, or at least without effect, unless the payment of dues was compulsory for Montreal. This argument, however, has no legal value because the compulsory payment system is an infringement upon the freedom of trade that can not exist except through a specific and unequivocal statutory provision. There was no such provision. However, any possible doubt was dispelled by the 1950 amendment.

*Captain Slocombe's Survey (Ex. 1452).*

Montreal was one of the Pilotage Districts included in the fact-finding survey made in 1947 by Captain Slocombe of the Department of Transport (pp. 72 and ff.). Excerpts of special interest are:

*"Special Features.*

Pilotage in this District is all river pilotage, within a dredged channel for 100 miles. There are no stretches of open water where a pilot may rest and leave the navigation to the ship's officers. The greatest difficulty is presented in the late Fall, when ice conditions enforce removal of buoys and when snow and storms are prevalent.

Pilots are embarked and disembarked at Quebec by means of the motorboat provided by the Shipping Federation of Canada, Inc."

*"Conditions of Service.*

There are at present 73 pilots on the roll, and all work in strict rotation unless appointed as special pilots. Such appointments are for one season only and terminate at the end of each season. A special pilot may also be required to take turn on the tour-de-role, and in practice each special pilot is required to make up the same total number of trips in a season as are performed by a tour-de-role pilot.

In busy times, pilots are called out three or four times a week for trips, in addition to movages...

A steamer of the 10,000 ton "Park" class takes 12 hours from Montreal to Quebec, 15 hours from Quebec to Montreal (if the tide serves). However, lakeboats comprise one third of the work, and they take 15 to 18 hours down-bound, 24 hours upbound. Lakeboats do not take pilots below Quebec, therefore it is not always known when they will arrive at Quebec upbound. This means that more pilots must be kept standing by at Quebec.

There is an unwritten agreement with the shipowners that after November 20th two pilots shall be carried and the shipowners shall pay an additional fee of \$25. The payment of this additional fee is voluntary, and the extra fee is not paid into the Pilotage Fund."

*"Pilots' Remuneration.*

The net average earnings (after deducting 7% for pension fund) of the full-time pilots in the Montreal District were \$4,243 in 1935, \$3,921 in 1946.

As far as the Department is concerned, those amounts represent 93% of the average earnings of a pilot in this District, there being no deductions by the Department other than for the pension fund. However, it may be noted that the tour-de-role pilots must pay all their own travelling expenses out of these amounts. The pilots claim that these expenses amount to about \$1,000 per year. The case of the special pilot is somewhat different in that a gratuity of \$9 per trip is provided by the owners for the special pilots. This practice was condemned by the Royal Commission of 1918 as being a direct contravention of the Canada Shipping Act, but it is still being carried on."

*"Pilotage dues.*

The rates per foot draught are lower for Inland or Coasting vessels (than sea-going steam vessels), although the pilotage of such vessels entails many more hours of work."

*"Representations of Pilots.*

With reference to the gratuity of \$6 paid by some shipowners to apprentice pilots, the pilots contend that apprentices render an important service to the shipowners and that in fact some owners ask for two apprentices to be appointed to a ship, so that they may do the steering. It is often difficult to have efficient steering by the crew of a ship immediately after leaving port."

The main complaints of the pilots concerned their remuneration which they considered totally inadequate. Captain Slocombe met both pilots and shipowners' representatives separately and summed up in his report the arguments on both sides. The Pilots' Committee told him that it was only with the greatest difficulty that the pilots were persuaded not to go on strike during the 1946 season. "They feel that after remaining on the job at very low remuneration during the war, as they were asked to do to assist the war effort, they are entitled now to some recognition by the provision of a level of remuneration commensurate with their responsibilities and the standard of living which was theirs before the war."

"In the case of a moveage in Montreal Harbour, for which the pilotage fee is \$5, a linesman handling the mooring ropes on the wharf is paid \$7.50."

"The pilots feel that they have a right to expect an annual remuneration of at least \$5,000 after paying expenses and after deduction is made for pension. The pilots are therefore seeking a 50% increase in all their rates over the level set in the By-laws. It is the intention to work out a new system of rates based on both tonnage and draught and when this has been done definite submissions will be made to the Minister."

*Reactions of Shipowners.*

The shipowners were surprised at the pilots' demands because they had not been consulted and they had not heard any complaints. The shipowners felt that the pilots should have come to them rather than deal directly with the Minister of Transport. Furthermore, they felt that "there had been very little consultation" and that "the Minister had acted most arbitrarily in re-instating the full surcharge of 25% on October 15 (1946)"... "The members expressed a desire to meet with the pilots for discussion before any definite submissions would be made on increased rates."

*Audette Report, 1949.*

The Montreal District was one of the Districts covered by this Committee.

Most of the remarks and recommendations in the Audette Report were of a general nature, e.g. guaranteed minimum earnings, the position of the various pension funds, the inclusion of a shipowners' representative on the



Board of Examiners, recognition of the Pilots' Associations, and the special pilot system. (These have already been dealt with, pp. 74 and ff.)

The problems that related specifically to the Montreal District were of lesser importance. The Committee passed on recommendations received for amending the by-laws about apprentices with a view to improving their qualifications and also in order to assure their entry into service at an earlier age so as to ease pressure on the Pension Fund. Special small problems were also discussed, such as whether one or two pilots should be on board a vessel and her tow and when a pilotage assignment is to be considered as having been performed (Ex. 1330).

The 1927 District By-law remained in force until it was repealed and superseded October 17, 1961, by the existing General By-law (P.C. 1961-1475, Ex. 430) after having been amended 37 times.

The first three amendments approved a 12 per cent reduction in rates for the years 1935, 1936 and 1937 which the Shipping Federation requested because of the depression. The converse happened during the war and post-war years when a surcharge varying between 10 and 25 per cent was imposed yearly to provide enough revenue to maintain an adequate pilotage service and provide the pilots with a satisfactory income. According to the preamble of the Orders in Council, all these surcharges, except the last, were made effective after consultation with the shipping interests. An amendment made April 19, 1947, introduced a new tariff based on draught and tonnage and designed to provide the pilots with an increase of 30 per cent over their prewar revenue to compensate for the increased cost of living. On this occasion, the term "tons" was defined as meaning net registered tons.

After the 1936 amendment to the Canada Shipping Act (Part I, p. 16) the discipline section of the By-law was amended to provide for a series of by-law offences in lieu of the former statutory offences which were abrogated. The Pilotage Authority's alleged powers to impose fines up to \$200, to suspend and cancel licences for breaches of by-laws and of the Superintendent's alleged right to impose a fine up to \$40 were reaffirmed by amendment no. 6 which also introduced special provisions dealing with the consumption of intoxicating liquor or the use of drugs while on duty or about to go on duty.

Some tariff items were slightly amended in 1937 and 1939 and the definition of the termination of pilotage duty was changed.

The 17th amendment (1948) assured the pilots a majority representation on the Board of Examiners whose composition had previously been left to the discretion of the Pilotage Authority. This amendment also substantially altered the conditions of employment of the pilots. Up to that time, the shipping companies could choose their special pilots who were then compulsorily appointed by the Pilotage Authority, but the amendment made it a prerequisite that the pilots' consent be obtained as well.

In the following years, the tariff was amended frequently. The pattern was to grant an overall surcharge followed the next year by a new scale, viz. amendments nos. 18 and 19 in 1948 and 1949 and amendments nos. 22 and 23 in 1951 and 1952.

Amendment no. 19 changed the criterion for determining the number of pilots to 50 pilots per 3,500 trips, i.e., 70 trips per pilot instead of the previous 60. This readjustment was no doubt made necessary because of improved channels and aids to navigation as well as faster ships, all factors which resulted in quicker transits.

Following the Canada Shipping Act amendment of 1950 regarding statutory exemptions, the By-law was modified (amendments nos. 20 and 21 of 1950) which purported to modify the relative statutory exemption as if the compulsory payment of dues applied in Montreal.

After the Audette Report, amendment no. 20 introduced substantial changes to the apprenticeship system in the matter of age limit, conditions of training, etc., while still preserving acquired rights.

Although in his report the Chairman, Mr. L. C. Audette, expressed concern about the rôle played by the Pilots' Association, especially pooling the pilots' earnings, a practice that he viewed "with disfavour and apprehension", the pilots' views prevailed and By-law no. 23, passed in 1952, officially recognized the Montreal Pilots' Association, i.e., the United Montreal Pilots, and the pooling of the earnings that it operated. The Association's Board of Directors was recognized as the Pilots' Committee and the pilots' earnings were to be paid to the Association and no longer to the individual pilots. This was in effect recognition in the regulations of a factual situation that had existed since the creation of the Association in 1918. Furthermore, the Pilotage Authority agreed to cooperate with the Association in the equitable distribution of work by including in its By-law the rule of equalization of trips.

Amendment no. 23, 1952, doubtless resulted from a recommendation of the Audette Committee and was designed to improve the disastrous state of the Pension Fund by providing more flexible rules for assessing contributions, thus bringing the Fund nearer to actuarial solvency.

Many other amendments dealt with apprenticeship, safety and discipline and fees. The main changes after 1953 were:

- (a) In 1956, amendment no. 28 altered the apprenticeship system extensively: the list of applicants was retained but the present requirement for technical education in marine matters was introduced by making a three-year course at the Rimouski Marine Institute a prerequisite.
- (b) In 1957, amendment no. 30 made the Montreal harbour pilots a distinct group; amendment no. 32, approved in 1958, granted

them, as a supplement to the dues, reimbursement for their transportation costs going to or returning from a moorage in the harbour.

- (c) In 1959, amendment no. 33 introduced grades for the Montreal (river) pilots, i.e., Grade C for the three first years of the licence with the pilot being gradually promoted to larger ships from 1,500 tons, 2,500 tons and finally 4,000 tons; Grade B to be granted after a minimum of three years as Grade C and after passing an examination gave the right to pilot all ships except those over 7,000 NRT which were the exclusive competency of the Grade A pilots; Grade A was not permanent and was subject to reclassification to Grade B if at any time the pilot was found no longer suitable.
- (d) In 1959, amendment no. 35 officially recognized for the first time the special difficulties of winter navigation by granting an extra \$3 fee per hour after the first ten hours with a maximum of \$25 a day on trips between December 14 and April 8. This amendment was repealed the following year by amendment no. 36 when the present By-law provision for winter navigation was adopted, i.e., double assignments on winter trips with double fees limited by a maximum of \$100 for the second fee.

On October 17, 1961, the 1927 By-law with its various amendments was repealed and replaced by the General By-law now in force.

In 1958, the Montreal (harbour) pilots grouped themselves in a corporation under the name of "Corporation of Montreal Harbour Pilots" (Part I, p. 88). The following year, the river pilots also obtained an incorporation under the name of the Corporation of Mid-St. Lawrence Pilots, but not all river pilots joined the Corporation although they were all parties to the partnership contract (Part I, p. 88). Both Corporations joined the Federation of the St. Lawrence River Pilots when it was incorporated in 1959 (Ex. 751) (Part I, p. 94). On Dec. 27, 1968, the partnership contract expired and was not renewed. Hence, the Pilots' Association, the United Montreal Pilots, was automatically dissolved. As of June 25, 1969, there were only two river pilots formerly members of the defunct Association who had refused to become members of the Corporation (Ex. 1539(c)).





## Chapter B

### BRIEFS

As already noted (pp. 79-80), thirteen briefs dealt with pilotage on the St. Lawrence River generally.

Only four of these briefs, one submitted by the Federation of the St. Lawrence River Pilots on behalf of the Corporation of Mid-St. Lawrence Pilots and the Corporation of the Montreal Harbour Pilots, the others, by the Shipping Federation of Canada, the Canadian Merchant Service Guild and Clarke Steamship Co. Ltd., contained specific recommendations concerning pilotage in the District of Montreal. These recommendations are as follows (the cross references indicate where the subject-matter of each recommendation is dealt with in the Report):

#### (1) FEDERATION OF ST. LAWRENCE RIVER PILOTS (B. 28, Ex. 671)

##### *Corporation of Mid-St. Lawrence Pilots*

- (a) That the present limits of the District of Montreal remain as they are (Part IV, Recs. 1 and 2).
- (b) That no other exemptions from compulsory payment of pilotage dues be granted (Part IV, Rec. 5; Part I, Gen. Recs. 22 and 23, pp. 532 and 539).
- (c) That the present limits of the tariff on tonnage be removed (Part IV, pp. 780-1).

##### *Corporation of the Montreal Harbour Pilots*

- (a) That the present limits of the District of Montreal remain as they are (Part IV, Recs. 1 and 2).
- (b) That the principle of the gradation of movage dues of ships according to tonnage be applied above the present limits of 5,000 tons by the addition of dues for each additional thousand tons (Part IV, pp. 780-1).

- (c) That the transportation allowances given to the other pilots in the District be given equally to the pilots of the port of Montreal (Part IV, pp. 785-6).
- (d) That, if the gates of the St. Lambert lock are not open, the pilots of the port of Montreal be permitted to leave their ships as soon as they reach the approach wall (Part IV, pp. 755 and ff.).

(2) SHIPPING FEDERATION OF CANADA  
(B. 27, Ex. 726)

That the division of the Montreal Pilotage District at Three Rivers be abolished, the eastern limits of the Montreal Harbour Pilotage District be established at Sorel and Sorel become the pilotage station where the changeover would be made from the harbour pilot to the river pilot and vice versa (Part IV, Rec. 1).

(3) CANADIAN MERCHANT SERVICE GUILD  
(B. 53, Ex. 1382)

- (a) "The National Pilots' Committee is strongly opposed to the recommendation made by the Management of the Port of Montreal to the effect that pilotage within the Harbour of Montreal should fall under its jurisdiction and control." (Part IV, Rec. 8).
- (b) "All the improvements which the management of the Port of Montreal foresees as a result of its taking over pilotage within the limits of the port can be more easily obtained through appropriate amendments to the port regulations adopted after consultation with pilots and the present pilotage authority, and by a larger measure of collaboration and more frequent consultations with pilots on all matters having to do with the handling of water traffic and movement of ships within the limits of the port." (Part IV, Rec. 8).

(4) CLARKE STEAMSHIP COMPANY LIMITED  
(B. 31, Ex. 1345)

In the harbour of Montreal, compulsory harbour pilotage should not be put into effect. The present arrangement is satisfactory (Part IV, Rec. 4; Part I, Recs. 22 and 23, pp. 532 and 539).



## Chapter C

# EVIDENCE

### PREAMBLE

The same problem of semantics arises in the District of Montreal as in the District of Quebec and mostly for the same reason. Hence, the definitions devised in Section One, pp. 113 and ff., apply to the service organization of the Montreal river pilots and harbour pilots (except for the few small differences indicated later) together with the statistical tables which correspond to those compiled for the District of Quebec containing the basic information which, unless the contrary is indicated, will be used throughout Section Three.

### *Trips and Turns*

The *river pilots* use the terms *trip* and *turn* with the same meaning as the District of Quebec pilots except for the following differences:

- (a) Trip (vessel) means one ship voyage within the District; hence, both a full transit between Quebec and Montreal and a trip from Montreal to Sorel count equally as one trip in the "trip (vessel)" statistics.
- (b) Trip (assignment) means each time a pilot was assigned to a trip, irrespective of its length. Hence, prior to 1950, one trip (vessel) always corresponded to one trip (assignment) for statistical purposes, pilots being assigned for the full transit and the despatching of a second pilot when winter conditions prevailed not being officially recognized. From 1950 to July 1957, a full transit meant one or two trip assignments, with a changeover of pilots at Trois-Rivières in case of a ship doing less than eight knots. For instance, in 1955, in 6114 trips there was no change of pilots, and in 2821 trips there was a change, making a total of 11,756 trips (assignment). Since July 1957, one full transit has counted for two trips (assignment) because there is a changeover of pilots at Trois-Rivières in all cases. Since 1961, when the joint despatching of two pilots in winter was officially recognized, one full winter transit which counts for one trip in "trip (vessel)" statistics has

counted for four trips (assignment). This explains why the aggregate number of trips (assignment) nearly doubles the trip (vessel) figures; it also explains why in the Montreal District the number of trips (assignment) is also almost double the corresponding figures for the Quebec District, although these should normally be approximately the same since most trips are transits through both Districts.

- (c) The Montreal tariff does not employ the term *trip* as a tariff unit, although the District is divided for tariff purposes into four zones at Portneuf, Trois-Rivières and Sorel. Instead of a single rate for a complete transit with the rate for each zone being a quarter of the total, four different rates are set varying according to the number of zones involved.

On account of discrepancies in the statistics contained in various official documents (although they were reputed to convey the same information), the Commission adopted the statistics listed in the following table concerning trips and turns according to their usual connotation.

The trip figures in this table for the years 1961 to 1969 inclusive were obtained from D.O.T. machine data statistics. These, however, are not available for the years prior to 1961 and the trip (assignment) figures quoted

MONTREAL RIVER PILOTS—NUMBER OF TRIPS PERFORMED AND SHARING TURNS

Year	Trips*						Sharing Turns	
	Vessels			Assignments			Admin. Free Turns†	Total‡
	With Pilots	Without a Pilot	Total	2nd Pilot	Change of Pilots at Trois- Rivières	Total		
1955.....				nil	2,821	11,756	nil	11,756
1956.....				nil	n/av.	13,212	nil	13,205
1957.....				nil	5,931	16,548	nil	16,537
1958.....	not available			nil	6,715	16,999	nil	16,950
1959.....				nil	7,383	18,436	nil	18,467
1960.....				nil	7,066	17,527	132	17,714
1961.....	10,532	3	10,535	485	n/av.	18,312	103	18,288
1962.....	n/av.	nil	10,171	—	n/av.	17,862	148	17,749
1963.....	10,068	3	10,071	684	n/av.	17,838	191.5	17,947
1964.....	10,388	5	10,393	696	n/av.	18,678	115	18,740
1965.....	n/av.	n/av.	n/av.	n/av.	n/av.	n/av.	n/av.	19,270
1966.....	11,739	nil	11,739	887	n/av.	20,798	n/av.	20,726
1967.....	10,226	20	10,246	657	n/av.	18,690	n/av.	19,922
1968.....	9,880	nil	9,880	705	n/av.	18,069	317	22,284
1969.....	8,987	61	9,048	1,820	n/av.	17,497	353	16,887

SOURCES: \*Exs. 1539(aa) and 534(b); †Ex. 782; ‡Ex. 785.

have been taken from the Pilotage Authority's annual reports. They do not convey the same accuracy but are sufficient to show the trend. As indicated earlier, there was a change of pilots at Trois-Rivières in certain cases from 1950 to 1957 when the change applied to all cases when ships passed Trois-Rivières. No record was kept of the number of times non-exempt ships dispensed with a pilot, since this was a rare occurrence, and for financial purposes, on account of the practice followed, there was no need to segregate such earnings. In Montreal they are paid into the pilots' pool and not into the Pension Fund as in the Quebec District. The sharing turns figures have been taken from the Pilots' Corporation pooling reports. Free turns to Directors began only in 1960; this was a new feature which came after the creation of the Corporation. The free turns figures for the years 1965, 1966 and 1967 could not be obtained from readily available records.

The system adopted by the *harbour pilots* is basically the same but much less involved.

- (a) The term *trip* does not exist; despatching and pooling are based on movages.
- (b) Two pilots are never despatched for a single movage and a movage counts for one assignment irrespective of its length. Hence, a performed movage always counts for one despatching turn.
- (c) Cancellation counts for a despatching turn. Hence, assignment turns comprise movages performed and cancellations.
- (d) Neither *movage* nor *turn* is used as a tariff unit. Movage rates vary according to the size of the ship, except for a movage at St. Lambert lock for which a flat rate is provided.
- (e) The sharing rules of the harbour pilots do not provide for indemnity turns.
- (f) The difference between movages (vessel) and movages (assignment) is that the former include movages effected without a pilot for which the payment of dues is compulsory (referred to in the Harbour Pilots Corporation report as "free moves").

The following table on traffic and workload is the composite result of statistical information contained in the Pilotage Authority's annual reports (Ex. 534(b)) and the Harbour Pilots' Corporation financial reports (Ex. 802). It is considered that, for the purpose of this Report, the information contained is sufficiently informative. From records available, it was not possible to provide more accurate information. The method of reporting both for the Pilotage Authority and the Pilots' Corporation has changed over the years. For instance, in 1961, the only statistical information contained in the Pilotage Authority's annual reports are the number of movages performed and the aggregate revenue yielded from the various rate items. Hence, the number of cancellations has to be estimated. The number of free



moves was mostly taken from the Pilots' Corporation financial reports, as were the free turns and total sharing turns figures. The method of establishing sharing turns has also changed over the years.

Year	DESPATCHING					POOLING	
	Movages (vessel)	Free Turns	Movages (assignment)	Cancel- lations	Des- patching Turns	Free Turns	Total Sharing Turns
1958.....	5,358	86	5,272	83	5,355	nil	5,355
1959.....	7,937	66*	7,871	207	8,078	nil	7,924
1960.....	—	n/av.	6,657	187	6,844	57	6,824
1961.....	6,119	359	5,760	175*	5,935	29	6,335.2
1962.....	5,932	288	5,644	175*	5,819	80	5,844.8
1963.....	6,050	210	5,840	175*	6,015	141	5,844
1964.....	7,392	236	7,156	175*	7,331	104	7,258
1965.....	8,487	165	8,322	175*	8,497	68	7,608
1966.....	8,374	157	8,217	175*	8,392	49	8,110
1967.....	7,212	136	7,076	175*	7,251	47	7,118
1968.....	5,747	90	5,657	160*	5,817	98	6,421

\* Approximate figure appraised from aggregate earnings and other information.

### Number of Pilots

The various definitions and comments contained on pp. 116 and ff. are also valid for both the river and the harbour pilots.

The following table shows the basic statistical information regarding the number of river pilots.

### NUMBER OF MONTREAL RIVER PILOTS

Year	Establishment as of December 31	Total Pilots Holding Licence during Any Part of Year	Year Pilots	D.O.T. Effective Pilots*
1955.....	97	97	95.5	92.8
1956.....	106	109	105.4	—
1957.....	114	114	111.9	111.3
1958.....	114	113	111.8	—
1959.....	118	120	114.5	—
1960.....	121	122	117.9	—
1961.....	121	120	118.5	117.3
1962.....	124	125	123.2	115.24
1963.....	127	130	124.7	117.1
1964.....	127	126	123.3	116.97
1965.....	131	133	129.6	124.5
1966.....	136	136	133.7	126
1967.....	142	142	141.1	132.6
1968.....	144	147	141.8	136.8

\* Ex. 534(b) (annual reports).

The following table contains the same information with regard to the Montreal harbour pilots.

NUMBER OF MONTREAL HARBOUR PILOTS

Year	Establishment as of December 31	Total Pilots Holding Licence during Any Part of Year	Year Pilots	D.O.T. Effective Pilots*
1957.....	12	12	3.8	—
1958.....	13	13	12.7	12.6
1959.....	16	16	13.9	13.2
1960.....	16	16	16.0	—
1961.....	16	16	16.0	16
1962.....	16	16	16.0	16
1963.....	16	16	16.0	—
1964.....	16	16	16.0	15.89
1965.....	18	18	16.9	16.71
1966.....	20	20	18.9	18.50
1967.....	20	20	20.0	19.40
1968.....	20	20	20.0	19.80
1969.....	19	19	19.0	

\* Ex. 534(b) (annual reports).

## 1. GENERAL DESCRIPTION

### (1) DISTRICT LIMITS

Three questions of fact arise from the District limits as defined in the legislation (pp. 564-567):

- the extent of the jurisdiction of the Montreal Pilotage Authority over the harbour of Quebec, i.e., the joint territory with the District of Quebec situated at the eastern end of the Montreal District;
- the *de facto* and legal limits of the territorial competency of the three groups of pilots operating in the District referred to below as "pilot limits";
- the difficulties arising from the obsolete definition of the western limit.

The first question is covered in the Quebec District (vide pp. 9-10); the other two are dealt with hereunder.

#### (a) *Pilot Limits*

The *de facto* and legal territorial competency of the Montreal District pilots, aside from the question of grades, does not coincide with the District

limits, as has been the case up to now in all Pilotage Districts except the merger-type District of Prince Edward Island:

- (i) While the river pilots' licences are not limited as to territorial competency by legislation (except for movages in the harbour of Montreal), a *de facto* limit divides the District into two sectors at Trois-Rivières (referred to in this Report as lower sector and upper sector), each sector of the River being served by a distinct group of river pilots.
- (ii) Limits established by District regulations establish the exclusive territorial competency of the Montreal harbour pilots over movages in the waters of the Montreal harbour so defined.

While the joint competency of the upper river pilots and the harbour pilots (although in a different capacity) in the harbour of Montreal precludes the formation of two Districts, the *de facto* division of the District at Trois-Rivières should have called for the division of the present District and the creation of two new Pilotage Districts, one for each sector. The compromise reached in 1957 was part way between the pilots' demands and the owners' opposition and counter demands influenced by legal difficulties concerning new statutory limits.

These changes were mainly caused by:

- (i) the length of pilotage trips and the difficulties of navigation;
- (ii) the shortage of pilots volunteering for movages in Montreal harbour;
- (iii) the lack of equity of the pooling rules governing the distribution of earnings from movages;
- (iv) the shortage of qualified apprentices to meet immediate and foreseeable requirements for new pilots.

Questions (ii) and (iii) could have been corrected easily by re-organizing the the despatching system and amending the pilots' pooling rules, but questions (i) and (iv) posed basic problems which affected the safety of navigation and the immediate and future efficiency of the service.

An analysis of the pilots' workload made by the Department of Transport showed that in 1948 half the trip assignments were full transits (140 nautical miles) with an average duration of 14 hours 20 minutes but often lasting as long as 20 or 24 hours because of the limited speed of most ships at that time. The same study revealed that the average duration of trip assignments of the pilot who first registered a complaint was 18½ hours. The reason for this discrepancy with the average duration of the trip assignments of all pilots was the inequitable sharing of the workload because of the existence of the special pilot system. In addition to the pecuniary and other advantages the special pilots had over the *tour de rôle* pilots, they had the majority of the shorter trips since the vessels belonging to regular lines were the fastest.



In the report on his survey, Captain F. S. Slocombe stressed how exacting it is to navigate a ship through the confined waters of the Montreal District which contains no stretches of open water where a pilot may rest and leave responsibility to a ship's officer (p. 609), a condition which sets the Montreal District apart from any other Pilotage District, the Quebec District included. The narrowness of its 100 miles of dredged channel, the numerous bends and the ensuing cross-currents present difficulties which are further compounded by the density and variety of the traffic. Hence, the pilots are obliged to take numerous, quick decisions which necessitate constant attention and alertness. In the interest of the safety of navigation such exacting duties require full physical fitness which can not be maintained over a prolonged period. The problem becomes more acute as traffic increases and larger, faster ships appear equipped with radar which enables them to proceed despite poor visibility.

Prior to 1957, the organization for handling movages in Montreal harbour was the same as still prevails in Quebec, i.e., a group of volunteer pilots effected movages in addition to, and in between, their regular trip assignments following a special tour de rôle. This system proved unsatisfactory because too few pilots volunteered for movages. There were a number of reasons, including the limited pay, but the principal one was the fact that, contrary to the situation that prevails in Quebec harbour, a great number of the Montreal pilots do not reside near Montreal harbour. Some have their residence in the suburbs or in the country, and travel back and forth to handle movages is unprofitable and time-consuming. A substantial number of pilots also lived at Trois-Rivières or Quebec and were, therefore, unable to volunteer except when they happened to be in Montreal after completing a trip assignment. Under these circumstances, the voluntary system could not meet the growing demand for movages.

In addition to unattractive movage rates and considerable travelling expenses, the pilots' pooling rules may also have contributed to the lack of financial incentive for the pilots to handle movages. When the pooling agreement was drafted, the rate for a movage was \$5. This was subsequently replaced by a series of flat rates for the various types of movage which, by the 1952 amendment, ranged between \$13 and \$32. According to the pooling rules then in force, earnings from movages formed part of the pool and a flat sum of \$10 per movage was paid to the pilot concerned before the pool money was shared (this rule was changed in 1959 and the movage dues no longer form part of the pool but are paid at the same time as the pool is distributed to the pilots who earned them, less the compulsory Pension Fund contribution). This created an unfair advantage for the pilots who performed no movage assignments in that the aggregate remuneration paid from the pool for movages was less than the total movage earnings credited to the pool.

It would also appear that over the years the individual pilot's workload had been allowed to increase abnormally as a result of failure to appoint additional pilots when the pilotage demand increased. The situation seems to have been such in 1957 that only a large number of new pilots could have solved the problem. Moreover, pilotage assignments both for trips and movages in Montreal harbour were expected to increase substantially following the opening of the Seaway and there were insufficient qualified apprentices to become river pilots. This problem was solved by creating a group of harbour pilots whose sole function was movages within the harbour. Since these limited pilotage duties did not require extensive training, recruiting could be effected directly from experienced, qualified mariners.

The question of the duration of trips was raised by a group of pilots at the annual pilots' meeting in January 1948. The pilot's study committee which was created at that time to consider the matter recommended that transit trips be performed by two pilots, the changeover to take place at Trois-Rivières where a pilot station would be established. In June 1949, representations to that effect were officially made to the Pilotage Authority by the Pilots' Committee. The implementation of the proposal would not affect shipping adversely since only the pilot boat charge would be additional.

The proposal was favourably received by the Pilotage Authority and was immediately implemented for all vessels whose maximum speed did not exceed eight knots. A wharf in the harbour of Trois-Rivières was placed at the disposal of any ships which refused to take advantage of the pilot vessel service to enable them to change pilots.

The new procedure was opposed by the Shipping Federation and the Dominion Marine Association. It was also opposed by the special pilots on account of the financial loss they suffered. The Shipping Federation pressed for rules to determine which vessels would be affected by the new system. The result was a decision that the pilot assigned to an ocean-going vessel should determine whether he wished to be relieved at Trois-Rivières if the transit up to that point had lasted more than seven hours. This ruling proved to be a source of discontent and friction among the pilots. The seven-hour arbitrary rule gave rise to abuses: it was claimed that ships were deliberately delayed and some pilots insisted on being relieved, whether or not that part of the trip had taken seven hours.

The situation was reviewed by the pilots at their annual meeting in January 1957. Following the decisions taken at that meeting, the Pilots' Committee in a brief presented to the Pilotage Authority on March 8, 1957, requested the division of the District into three separate Districts: Quebec to Trois-Rivières, Trois-Rivières to Montreal harbour (Marien Street wharf) and the harbour of Montreal. At the same time, they urged the abolition of the special pilot system and requested an increase in pilotage rates which they felt warranted consideration in view of the proposed division of the District.

The pilots advanced the following arguments in favour of creating a separate District for the harbour of Montreal and, hence, separate groups of pilots to attend to all ship movements (trips and movages) within the harbour:

- (i) The harbour of Montreal was probably the only large harbour in the world where pilotage was not handled by a special group of pilots.
- (ii) The harbour contains a large number of berthing facilities extending over a wide area where shiphandling is specialized and differs from river pilotage.
- (iii) The number of movages alone would be sufficient to justify the creation of a separate group of harbour pilots.
- (iv) The ever increasing density of harbour traffic requires that pilots moving ships in the harbour have greater experience of its conditions and peculiarities, both for the safety of navigation and the efficiency of the service.
- (v) The increase in harbour traffic expected after the opening of the Seaway would necessitate a group of harbour pilots.

The river pilots volunteered to train the persons selected to become harbour pilots and stated that they would continue to provide harbour services until the harbour pilots' training was completed.

The Shipping Federation reacted vigorously to the pilots' recommendation. It opposed the proposed partition of the District noting that the creation of separate Districts for the harbour of Montreal would mean a changeover of pilots every time a ship entered or left, which would inevitably result in an increase in the cost of pilotage. For the same reason, the Shipping Federation insisted that large passenger vessels and large tankers should not be required to change pilots at Trois-Rivières because they considered it unreasonable to oblige these fast vessels to slow down simply to change pilots during a trip of relatively short duration.

With regard to the harbour pilots, the Shipping Federation made a counter-proposal. While arguing that the problem was not pressing, they did not oppose the eventual formation of a group of harbour pilots provided they were recruited from District river pilots and their competency was limited to movages within the harbour; the river pilots would continue to berth and unberth at the completion or beginning of a river trip and the harbour of Montreal would become joint territory for both harbour and river pilots but in a different capacity.

In the course of the following weeks, many meetings were held between the representatives of the pilots, shipping and the Pilotage Authority until agreement was reached on the present organization:

- (i) There would be no formal division of the District. The pilots abandoned that part of their demand because, on one hand, there



was an acceptable alternative and, on the other, the partition of the District would have required an amendment to the Canada Shipping Act.

- (ii) There would be, for despatching purposes, a *de facto* division of the District at Trois-Rivières, the pilotage service in each sector being provided by a separate group of river pilots. The pilots had been adamant on this point and had threatened to strike if it were not granted. Under the circumstances, the Shipping Federation agreed that this part of the proposal should be given effect to on a trial basis. Experience proved conclusive and since then the *de facto* division has become a permanent feature of the organization.
- (iii) A group of harbour pilots whose competency was limited to movages only would be created. A joint committee was to be set up to select candidates and direct their training.

On July 23, 1957 (P.C. 1957-987) the District By-law was amended to allow for the formation of the group of harbour pilots. However, the *de facto* division of the District at Trois-Rivières was not reflected in the legislation but from the point of view of the Authority was dealt with merely as an administrative matter, i.e., as an aspect of despatching.

The 1957 reorganization made two profound changes in the District organization:

- (i) It resulted in the creation of a second group of pilots with their own professional organization and operating under their own rules and regulations. Although both groups (river and harbour) operate in the same District under the same Pilotage Authority, their *expertise* is different and each group has its own function, thus precluding pilots from one group being transferred to the other.
- (ii) Nevertheless, the division of the river pilots into two groups for despatching purposes is reflected only in the despatching rules. Since the apprentices must continue to train for the whole of the District and the river pilots' licences are not limited to one sector, transfers would be theoretically possible. The river pilots of both sectors have continued to form part of the same professional organizations as before and their earnings form part of the same pool; equal opportunities to earn a maximum share are provided by adjusting the strength of each group and by computing the maximum share separately for each sector.

In 1959, through Bill S-3, the Department of Transport tried to solve the problem of changing the District limits of Quebec and Montreal by amending generally the pertinent provisions so that the limits could be altered by regulations emanating from the Governor in Council as is the

case for other Districts. The pilots opposed the change because of the guarantee afforded by statutory limits, i.e., there is no possibility that their District can be abrogated or its limits altered summarily, a stand which they reiterated before this Commission. For the Commission's view on the matter, vide p. 9. Part I, p. 55 also refers.

During this Commission's hearings, the Shipping Federation recommended a reorganization of the pilotage service: the competency of the harbour pilots to be extended to the whole of the harbour of Montreal, i.e., as far as the harbour of Sorel; the changeover point to be moved from Trois-Rivières to Sorel where the river pilot would be relieved by a harbour pilot in all cases; the trip between Quebec and Sorel to be a single assignment. As a result, the river pilots would no longer be divided into two groups. This proposal is studied on pp. 664-667.

(b) *Problems Resulting from the Obsolete Definition of the Western Limit*

The harbour of Montreal could have been made joint territory for both Districts of Montreal and Cornwall, the Cornwall pilots' jurisdiction being limited to terminating or commencing a Seaway trip in the harbour (a situation similar to the one that exists in Quebec).

An alternative solution existed, however, and had to be adopted on account of its advantages, despite the fact that it meant adding a moving charge for vessels whose destination or point of departure is a berth in Montreal harbour. Changing pilots while under way is always risky, especially in a narrow channel with heavy traffic. The ideal is to change when not under way, as is the case for all ships proceeding through the Seaway when they are in St. Lambert lock or secured to an approach wall.

The Pilotage Authority for the District of Montreal has acted as if the western limit of its District was at St. Lambert lock and as if the lock and the eastern approach wall were joint territory with the District of Cornwall for the changeover of pilots. However, because the western limit of the Montreal District on the Seaway has not been defined in the Act or by an order emanating from the Governor in Council, the Pilotage Authority has lacked authority to settle the problems that have arisen, except by compromises. The inadequacy of the By-law definition of the harbour of Montreal for pilotage purposes (subsec. 2(h)) has further complicated the problem.

Two types of problem have arisen:

- (i) the power of the Montreal Pilotage Authority to fix rates for services rendered in the Seaway approach and at St. Lambert lock;
- (ii) the place and procedure for the changeover of pilots in the lock area.

*Problem (i).* The clearly indicated place to effect the changeover of pilots for ships using the Seaway is at St. Lambert lock, and the Montreal Pilotage Authority used to require its pilots to pilot ships up to that point. It was, however, incapable of enforcing its decision on legal grounds and this led to a series of compromise solutions. In 1959, it was obliged to yield to the river pilots' demand for a \$20 additional charge plus \$3 for land transportation for trips beginning or ending at the lock (Schedule, sec. 3). Before imposing the new charge, the Pilotage Authority had consulted the shipping interests involved. The Dominion Marine Association, which represents inland vessels which are exempted from the compulsory payment of dues in the Cornwall District and, therefore, up to the entrance to the Seaway, contested the power of the Pilotage Authority to fix such a rate. The contention was solved by a compromise at the expense of the compulsory payment system by making the \$20 rate applicable only to vessels actually piloted by a river pilot through that sector of the Seaway, i.e., only in cases where such service was actually rendered by a river pilot. For downbound ships in transit the river pilot boards at St. Lambert lock but does not begin piloting before the ship has passed the entrance to the Seaway, if the Master of the ship so decides. In such a case, the \$20 additional fee is not payable but the \$3 transportation indemnity remains. This restriction was not extended to the harbour pilots since the financial problem did not arise.

This compromise with the compulsory payment system is illegal because there is no provision in the Act enabling even the Governor in Council (Part I, p. 60) to make the compulsory payment system applicable only to part or parts of a District. The Pilotage Authority does not have the power to vary relative statutory exemptions as to territory but solely in respect of the category of ships affected and of the extent of the exemption as to the amount to be paid (Part I, pp. 221 and ff.).

*Problem (ii).* The absence of provisions in the By-law concerning a joint area for the changeover of pilots and delimiting the procedure for changeovers and the respective competency in that area of the Cornwall and Montreal pilots resulted in a series of conflicts between the pilots of both Districts for which illegal solutions were arrived at through compromise.

The conflict originated when the Montreal Pilotage Authority (who also happened to be the Cornwall Pilotage Authority) yielded to the demand of the Cornwall pilots and decided that a harbour pilot's services would terminate only when the upbound ship had entered the lock. Up to then, i.e., between 1959 and the end of the navigation season of 1961, a logical and realistic procedure had been followed by all pilots: a pilotage assignment of both a Montreal river and harbour pilot terminated when the ship first tied up, i.e., inside the lock if the ship had not had to tie up at the wait wall, or at the tie-up wall if it had not been possible to enter the lock on arrival, and the Cornwall pilot took over wherever the Montreal pilot disembarked.



The decision of the Montreal Pilotage Authority which created two different procedures depending whether the pilot in charge was a river pilot or a harbour pilot was not accepted by the harbour pilots and a conflict lasting two years ensued. The Pilotage Authority was unable to impose its decision because it was not founded on legal grounds, since it could not establish that St. Lambert lock was within its territorial jurisdiction. It was settled in 1964 at the expense of shipping. The harbour pilots finally accepted the Pilotage Authority's decision in return for additional remuneration for the extra service (\$20 for the first hour and \$5 per additional hour) when a harbour pilot at the end of a movage had to bring a ship into the lock from a moored position at the wait wall. This solution gave satisfaction to the pilots but, as was to be expected, was not favourably received by the Shipping Federation. However, they did not resort to court action—the only effective remedy left at their disposal. This problem will be studied further pp. 755 and ff.

## (2) PHYSICAL FEATURES

The Pilotage District of Montreal comprises that part of the River St. Lawrence from the upstream end of the harbour of Montreal, including the approach to the Seaway as far as St. Lambert lock, and ending with the harbour of Quebec (which also forms part of the District of Quebec). The distance is 140 nautical miles. This stretch of the River, which is shallow throughout most of its length, is negotiated by a tortuous channel, 100 miles of which is dredged, relatively narrow and 35 feet deep at low water. This becomes the maximum depth above Trois-Rivières where there is no tide.

Although according to its statutory description the District comprises the navigable waters of the rivers flowing into that section of the St. Lawrence, no pilotage is performed in any of them except that part of the Richelieu River which forms the harbour of Sorel. These rivers, including the Richelieu Canal, can accommodate only very small vessels which do not employ pilots.

The main navigational hazards are currents and cross-currents, confined waters, the nature of the dredged channel, frequent periods of poor visibility, heavy traffic and severe ice conditions in winter.

For the purpose of this study, the channel may be divided into three parts: the harbour of Montreal proper and the River from Marien Street wharf to Trois-Rivières, which form the upper sector of the District, and the River from Trois-Rivières to Quebec, which forms the lower sector.

### (a) *Montreal Harbour Proper*

This section of the channel, 8.6 nautical miles in length, is dredged throughout. It also comprises, in fact if not in law, the approach to the Seaway up to St. Lambert lock (three miles two cables in length), both of which form part of the Cornwall District as well.

This approach offers no particular navigational difficulties beyond those inherent in canals and locks. The approach is a straight, dredged channel where minimum manoeuvrable speed may be maintained because of the absence of current. Except when meeting another vessel in the channel, the only place where special care should be taken is at the entrance to Montreal harbour where a swift downstream current and harbour traffic must be contended with.

This sector of the harbour of Montreal comprises a continuous line of wharves of various types and shapes, all on the city side of the harbour along a rather narrow channel (one cable wide under the Jacques-Cartier Bridge) where, in addition to traffic, navigation is hampered by the swift St. Mary's Current (vide p. 581) and the strong cross-currents it creates.

St. Mary's Current flows into the harbour between the city and Ile Ste-Hélène. The upper part of the harbour is protected by a jetty as far as Victoria Pier. It provides an area 11 cables long where no current is encountered except the eddy off the end of the jetty. The entrance to the former Lachine Canal was in this area. At the top are Bickerdike and Windmill Point Basins and on the city side a number of finger piers, most of which provide a maximum depth of 35 feet alongside. Tugs are used for berthing and unberthing in this restricted area.

The main force of St. Mary's Current is between the Clock Tower on Victoria Pier and a point about three cables downstream from Jacques-Cartier Bridge where the channel widens. Its velocity in this area varies between six and eight knots. It does not follow the channel but creates alternating cross-currents at acute angles accompanied by numerous eddies.

Except for the L-shaped Victoria Pier which forms Market Basin, all other wharves in this area face the stream. Most provide 30 feet of water alongside.

Downbound ships have serious problems navigating in that area. They must reach 10 knots over the ground in order to maintain steerage-way and also have to counteract the cross-currents. Upbound traffic and Seaway cross-traffic past the Jacques-Cartier Bridge are also met. At times, the pilots have to move downstream stern first maintaining steerage-way by stemming the current just below its speed before they can turn where the channel widens just above the Seaway entrance.

Navigation is not difficult for ships proceeding upstream because they are stemming the current. The main problems are cross-currents and downbound vessels which, as indicated above, are less manoeuvrable and which for this reason are to be given precedence (sec. 10, St. Lawrence River Navigation Safety Regulations). Since the current is much stronger on the city side, it had been the custom for slower vessels bound for the upper end

of the harbour to proceed where the current is weakest, i.e., on the port side of the channel, provided the proper signals are exchanged. Failure to anticipate these difficulties and give the proper signals caused the collision between S.S. *Manchester Merchant* and S.S. *Lionel* in Dec. 1963. Following this casualty a directive was issued to the pilots by the Harbour Authority that "No vessel shall pass or meet another vessel in St. Mary's Current, except in an emergency." (Ex. 1539(x) Annex 1).

Past Ile Ronde, about three cables downstream from the Jacques-Cartier Bridge, the River widens and the current slackens gradually to about three knots off the entrance to the Seaway and two knots further downstream.

Navigation in that sector presents few difficulties except for traffic crossing to or from various berths on the city side and the entrance to the Seaway on the other. The danger from cross traffic is lessened by the traffic control exercised by the Port Authority up to April 1968 and by Marine Traffic Control since then, and by the fact that vessels have more manoeuvring space because the channel is much wider there. The wharves in this sector are front wharves except for finger piers facing the entrance to the Seaway. A number of berths provide maximum depth alongside.

Between Longue-Pointe and Marien Street wharf, the channel is wide and offers few navigational difficulties. In the first part of this section, the channel forms a curve off which the anchorage of Longue-Pointe, the regular anchorage area both for the harbour and the Seaway, is situated on the city side. This anchorage is insufficient in peak traffic periods and vessels have to use the second anchorage downstream off Lanoraie.

Further downstream are the wharves belonging to various oil companies, all with maximum depth alongside. In all that sector, the channel has a minimum width of 1,000 feet.

(b) *Marien Street Wharf—Trois-Rivières*

The 60-mile stretch from Marien Street wharf to the harbour of Trois-Rivières consists of a dredged channel except for nine miles between Lanoraie and the downstream limit of the harbour of Sorel, and five miles at Pointe-des-Ormes (Trois-Rivières harbour). There are no particular difficulties except those pertaining to a narrow dredged channel winding through a series of islands and shoals. The whole area is well served by a series of leading lights and other aids to navigation. Although the River is wide enough, the free flow of the downstream current is obstructed by the many islands which cause the current to vary in intensity between  $1\frac{1}{2}$  to 3 knots and create numerous cross-currents. In winter, they cause ice jams.

From Lanoraie to the city of Sorel the channel is natural and deep, three cables wide at its narrowest. The area off Lanoraie is used as an alternative anchorage, thus restricting the channel to some extent.



In 1969, an emergency anchorage 4 to 9 cables in length and 2 cables in width with a depth of 35 feet was completed south of the ship channel off the Contrecoeur Iron Ore wharf.

Cross-traffic from various wharves *en route* must be watched, especially when passing in front of Sorel.

As a result of widening the channel from 550 feet to 800 feet, many leading lights no longer indicate the centre of the channel. This should cause no difficulty to anyone familiar with the area and the information is clearly indicated on the charts.

The changeover of pilots is effected at Pointe-des-Ormes in the natural enlargement of the deep water of the St. Lawrence River between Lake St. Peter and Trois-Rivières.

(c) *Trois Rivières—Quebec Sector*

The first difficulties encountered in this 73-mile sector are the cross-traffic in Trois-Rivières harbour and the cross-currents in the lower part of the harbour created by the outflow of the St. Maurice River.

The first 30 miles from Trois-Rivières to Grondines is a continuous, winding, dredged channel; the lower half, except for four comparatively short stretches (the largest being the 4-mile Cap Santé Traverse), is a natural channel wider than the dredged channel. In this area there are a number of suitable anchorages off the main channel.

The tide is felt throughout this sector. Its range is about one foot at Trois-Rivières increasing gradually to an average of 15 feet at Quebec. The 35-foot depth in the dredged sections is, therefore, a guaranteed minimum at low tide. With the conjunction of the tidal current, the current velocity is increased and the spring tide ebb current may reach six knots at Cap-à-la-Roche near the Richelieu Rapids and under the Quebec Bridge. Both flood and ebb tides are accompanied by tidal currents and cross-currents which vary in direction and intensity.

Fog is a serious hazard and is more prevalent in certain areas such as the Champlain Curve.

A special hazard all along the channel between Montreal and Quebec is the presence of numerous dredges, barges and tugs engaged in extensive capital works enlarging and improving the dredged sections of the channel and maintenance dredging to retain the guaranteed minimum of 35 feet. The exact locations of the various dredging operations are brought to the attention of shipping through regular radio broadcasts of Notices to Shipping. In these areas there is a constant traffic of tugs and barges criss-crossing the channel to dispose of the dredged material. In the course of the operations, floating aids to navigation are displaced; when this occurs shipping is supposed to be notified by Notices to Shipping. This is not, however, always done and instances of this nature have often been reported to the authority

responsible for the ship channel. Dredging operations at night also cause confusion because the various lights used hide aids to navigation or may be mistaken for them.

### (3) PRINCIPAL HARBOURS

From the pilotage point of view, the principal harbours of the District, all of which are Ports of Entry, are, for the upper sector of the District: Montreal, Sorel and Trois-Rivières; for the lower sector: Trois-Rivières and Quebec. The upper sector, except for the area of Lake St. Peter, comprises the waters of the three harbours. Trois-Rivières is common to both sectors. The harbour of Quebec forms part of the Montreal District only in a limited way, i.e., for the purpose of commencing or terminating trips to or from upriver.

#### (a) *Montreal Harbour*

The harbour of Montreal is under the jurisdiction of the National Harbours Board and its limits are contained in the National Harbours Board Act as amended by regulations made by the Governor in Council pursuant to subsec. 6(2) of the Act. The statutory definition contained in the Schedule of the Act has been amended only once so far since the Act was passed. In 1960, P.C. 1960-1486 (Ex. 451) extended the harbour 23 nautical miles downstream from the eastern end of the Island of Montreal to the upstream boundary of the harbour of Sorel—a total length of 36 miles. The opening of the Seaway has not been reflected by an amendment to the upstream limit of the harbour, although P.C. 1955-696 dated May 12, 1955, and P.C. 1965-897 dated May 13, 1965, transferred the administration, control and management of the beach, deep water and filled land lot where the approach to the Seaway is situated from the National Harbours Board to the St. Lawrence Seaway Authority. Therefore, whether or not the approach to the Seaway still forms part of the harbour of Montreal, it is not under the direction and control of the Harbour Authority.

The statutory boundary of the harbour of Montreal does not coincide with the pilotage By-law definition of the harbour. Upstream, it extends to a line 3,760 feet upstream from, and parallel to, Victoria Bridge.

The berthing facilities are situated on the city side of the harbour and comprise 90 open berths extending over 12 miles of wharves, most of which are situated upstream from the city of Longue-Pointe. In the new section of the River annexed to the harbour of Montreal in 1960, the only wharves of importance are the Iron Ore wharf at Contrecoeur and the Quebec Hydro wharf at Tracy.

The official depth in the ship channel throughout the harbour is 35 feet at the 1897 datum. This depth varies with the amount of outflow upriver, which, in turn, is influenced by a number of factors, principally freshets.

These variations affect the maximum permissible draught of vessels. The 35-foot depth corresponds to the depth of the dredged portion of the ship channel between Quebec and Montreal. The seaway depth is 27 feet. The depth alongside the various berths varies from 25 to 35 feet.

Maintenance of the ship channel in the harbour is the responsibility of the Department of Transport but dredging alongside the wharves is handled by the National Harbours Board.

There is little silting in the harbour, the principal causes being waste from sewers in Montreal and neighbouring municipalities and dust and waste material from the loading and unloading operations of vessels and boulders displaced by ice during the runoff period.

In the spring, as soon as the harbour is clear of ice, the Department of Transport Ship Channel Authority takes soundings both in the channel and alongside the wharves to ascertain whether the depth has been reduced. The results of these soundings are brought to the attention of the Harbour Master who transmits them upon request to the pilots and agents. Furthermore, if at any time during the year a complaint of insufficient depth is received, the particular area is verified and, whenever the required depth is no longer obtained, maintenance dredging is carried out.

(i) *Harbour traffic control (Ex. 1539 (x))*

The general principle for marine navigation in Canadian waters—including harbours—is that the Master is free to navigate whenever and wherever he wishes, and is expected to comply with the International Rules of the Road, as amended for a given locality by regulations made by the Governor in Council under sec. 645 C.S.A. In fact, the St. Lawrence River Safety Regulations contain a number of modifications concerning navigation within the harbour of Montreal (vide p. 655). There may also be modifications by, or at the instance of, Harbour Authorities, provided their power to do so is clearly established by the governing statute (e.g., the New Westminster Harbour Commissioners Act (3-4 Geo. V c. 158 s. 20) and regulations made thereunder (Ex. 513), vide Part II, pp. 271 and 275-276). Section 646 C.S.A. stipulates that these local regulations are without force or effect if they conflict with the regulations made by the Governor in Council pursuant to sec. 645; otherwise, they are complementary. However, nowhere in the Canada Shipping Act is there any authority for the establishment of the management and direction of maritime traffic.

Subsecs. 13(1)(a) and (b) of the National Harbours Board Act have been interpreted as giving the Governor in Council, at the instance of the National Harbours Board, power to amend by regulation the International Rules of the Road and the Safety Regulations he made pursuant to sec. 645 C.S.A., and to authorize the establishment and operation of a system of control and direction of maritime traffic within the harbour. The two subsections read as follows:



"13. (1) The Governor in Council may make by-laws, ... for ... the administration, management and control of the several harbours, ... under its jurisdiction including

- (a) the regulation and control of each and every matter in connection with vessels and aircraft navigating the harbours and their mooring, berthing, discharging or loading or anything incidental thereto;
- (b) the use of the harbours (and their facilities) by vessels and aircraft and the owners thereof, ..."

Prior to the opening of the Seaway, the administrative activities of the Montreal Port Authority in this field were limited to the allocation of berths and anchorages. The only action with regard to harbour traffic was through the adoption of special traffic regulations which, in fact, amended the rules of the road and safety of navigation regulations enacted under sec. 645.

The main provisions of the National Harbours Board Operating Regulations (By-law A-1) of 1954 in this field concerning Montreal harbour were: sec. 31 stating that every vessel in the harbour was under the control and subject to the orders of the Board in respect of its movement and location; sec. 35 with regard to maximum speed in the various parts of the harbour; sec. 42 prohibiting the entry of any vessel into the harbour from the Lachine Canal except at the time permitted by the Board; sec. 43, which is still in effect, amending the general collision regulations in providing for special sound signals and rules of the road (downbound vessels leaving the entrance of the Lachine Canal have to give one prolonged blast in order to warn upbound vessels, and have to navigate to the right of the mid-channel before rounding Alexander Pier; vessels downbound from a point above Victoria Pier to a point below Victoria Pier have also to give a prolonged blast when opposite the Marine Tower Jetty in order to warn vessels leaving Market Basin; vessels heading out of Market Basin have to give one prolonged blast before leaving the Basin in order to warn downbound vessels); sec. 89 stipulating that no vessel carrying explosives is to enter, move within, or depart from, the harbour without a prior permit granting permission and upon such conditions as the Board sees fit to impose. A vessel could not proceed to any berth under N.H.B. jurisdiction or to an anchorage without first obtaining the Harbour Master's authorization but, otherwise, ships were free to depart when they wished and to navigate in the harbour at their convenience.

With the opening of the Seaway, greater control of navigation in the harbour became necessary, both on account of the additional hazards created by the fact that the entrance to the Seaway was situated in the middle of the harbour just below St. Mary's Current, and also by the increase in the number and size of ships using Montreal's berthing facilities. The Operating Regulations were amended in 1959: sec. 35 changed the speed limits and speed zones; sec. 42 was modified to require that prior authority must be obtained from the Harbour Master when entering from the Seaway as well as from the Lachine Canal; sec. 42A was added to give right of way to a

downbound vessel over one entering or leaving the Seaway. In addition, close liaison was established with the Seaway administration in order to enable the Port Authority to keep track of vessels proceeding to, or out of, the Seaway.

Steps were then taken to organize and operate some limited control and regulation over ships navigating within the harbour. By then, a great number of ships were equipped with VHF radiotelephone because it was a standard requirement for ships proceeding through the Seaway. The Harbour Authority was authorized to operate a VHF radiotelephone, and limited administrative traffic control was formally established by an amendment to the Operating Regulations in 1961. This was effected by replacing sec. 42 and sec. 42A by the following provision:

"42. (1) This section applies to the harbour of Montreal.

(2) No vessel shall enter the harbour from the Lachine Canal or the St. Lawrence Seaway except at the time permitted by the Board.

(3) Every vessel that is proceeding downstream in the St. Lawrence ship Channel shall have the right of way over any vessel entering or leaving the St. Lawrence Seaway.

(4) No vessel shall move from any berth or anchorage in the harbour at any time without first having obtained permission from the Harbour Master within fifteen minutes of the actual time of moving.

(5) Where any vessel is delayed in moving from a berth or anchorage after permission to move has been obtained, that vessel shall notify the Harbour Master immediately and permission to leave the berth or anchorage must again be obtained when the vessel is ready to proceed.

(6) Every inbound vessel passing the Town of Sorel shall, before crossing the common boundary between the Montreal Harbour and the Sorel Harbour, report to the Montreal Harbour Master by radio telephone.

(7) The master of any vessel that is unable to communicate as set out in subsection (6) shall arrange for the Harbour Master to be notified of the vessel's arrival at the reporting position by the owner.

(8) Every vessel intending to anchor shall first apply to the Harbour Master for assignment to a designated anchorage.

(9) Except in a case of emergency, no vessel shall, at any time, drop anchor in or close to the St. Lawrence Ship Channel."

Following the collision between the *Manchester Merchant* and the *Lionel* in December 1963, the following additional traffic instructions were issued as directives to pilots. These rules were never embodied in the Operating Regulations although this was then the intention (Ex. 1539 (x)):

"(a) All vessels entering the Harbour of Montreal from the St. Lawrence Seaway and bound for the upper harbour, are to proceed downstream and turn north of Elevator 4, in Vickers channels, west of the main ship channel, between the north end of Elevator 4 and the south end of Longue Pointe shoal.

Turning upstream at the Seaway entrance, rounding light buoy 193M, will only be permitted in special cases and/or emergencies, upon permission being granted by the Harbour Master.

(b) Vessels leaving Longue Pointe anchorage downbound, and unable to turn at the anchorage should also use the area mentioned in sub-section (10) (sic),

proceeding upstream through Racine Channel and turn south of Longue Pointe shoal.

- (c) No vessel shall pass or meet another vessel in St. Mary's Current, except in an emergency."

The 1967 modification to sec. 31 of the Operating Regulations specified the scope of the control the Board could exercise over vessels in its harbours:

"31. Every vessel in the harbour shall be subject to the orders of the Board in respect of her draught, location, speed and direction, and in respect of her means and method of movement."

Thus, prior to April 1968, traffic control in Montreal harbour, as exercised by the Harbour Authority, operated as follows:

Ships upbound, whether merely in transit to the Seaway, or destined to a harbour anchorage or berth, were required when passing Sorel to obtain the Harbour Master's instructions by radiotelephone prior to entering the harbour. This was merely a means of gathering information and permission to enter the harbour was automatically granted. The necessary planning for ships proceeding to a berth had already been completed because arrangements had normally been made with the Harbour Master by the ships' agents. The Harbour Master's instructions consisted only of informing a ship which berth was allocated and if it was ready; if not, the ship was ordered to anchor in an allocated position, unless it was expected that the berth would soon be available, in which case the ship was advised to proceed at reduced speed in order to arrive when the berth was free. In the case of a ship proceeding to the Seaway, the Harbour Master ascertained from the Seaway operator whether the ship could proceed into the Seaway or not; if affirmative, the Seaway instructions were relayed to the ship but, if negative for any reason, she was required to proceed to an anchorage, unless clearance was soon to be expected, in which case she was required to slow down. When a vessel had to submit to a Seaway Authority inspection, she was ordered to proceed to the Longue-Pointe anchorage and fresh instructions from the Harbour Master had to be sought before leaving the anchorage for the Seaway.

For ships downbound from the Seaway, clearance from the Harbour Master to enter the harbour was obtained *via* the Seaway Authority which relayed to the Harbour Master information whether ships were merely in transit or requesting a berth in the harbour. Clearance was automatically granted because delay in the Seaway canals and locks would have amounted to halting Seaway operations. In the case of ships in transit, this served only as traffic information for the Harbour Traffic Controllers in planning the few traffic instructions they had to issue regarding other ships' movements in the harbour. Ships bound for a harbour berth followed the same procedure as described earlier for upbound ships.

The only actual traffic direction exercised for safety purposes was issuing a clearance to leave a berth or an anchorage position. A ship was



not allowed to proceed without first obtaining the Harbour Master's permission. A clearance was valid for 15 minutes and, if the ship had not proceeded within that time, a fresh clearance had to be obtained. Before issuing a clearance, the Harbour Traffic Controller had to appraise the traffic situation, both in the harbour and the Seaway, and gave clearance only when he considered it safe for the ship to leave the berth or anchorage. At the same time, information was given about the movements of other ships expected during the time the clearance was valid.

In effecting such traffic control, the Harbour Authority was trying to achieve both safety of navigation and the maximum efficiency of port operations with least inconvenience, delay or cost to shipping. Port traffic control played an important part in planning port operations.

As in Quebec, the procedure and extent of harbour traffic control have been substantially modified by the Department of Transport Marine Traffic Control System on the St. Lawrence River (vide pp. 180 and ff., and p. 656) which requires all ships within the system to keep their VHF radio-telephone set open on the sector listening frequency, thus precluding the Harbour Authority from operating its own radiotelephone system. This resulted in basic changes in the Montreal harbour traffic control operations.

Since April 1968, the DOT Marine Traffic Control System has superseded the Montreal Port Authority in the responsibility it had assumed for the direction of traffic in the harbour, the rôle of the Harbour Master being limited to what it was prior to 1959, i.e., the allocation of berths without, however, any control over anchorages.

At first sight, it is surprising to find that Marine Traffic Control has exceeded its rôle and infringed on what appears to be the responsibility of the Harbour Authority, i.e., giving ships orders rather than mere information. It is obvious that this practical solution was adopted in the interests of shipping to avoid a duplication of safety information. However, the infringement is more apparent than real because the only traffic orders the Harbour Master used to give were departure clearances which constitute, in fact, an information service to Masters and pilots by an authority which is aware of up-to-the-minute traffic conditions throughout the harbour on the basis of a constant survey. Leaving a berth, especially in that part of the harbour situated above the entrance to the Seaway, is fraught with danger because the narrow channel leaves little room for manoeuvre and the range of visibility is limited by curves in the channel hiding from view downbound traffic which lacks manoeuvrability in St. Mary's Current. Before the Marine Traffic Controller gives authorization to leave a berth, he must first appraise the state of the traffic and ascertain at what period the manoeuvre can be safely effected without undue delay. When this is established, a clearance valid for 15 minutes is given, the Master and pilot are

informed about the traffic that will be met during that period and other ships about to navigate in that area are warned. Such a clearance does not give the departing vessel any right of way. It is the responsibility of the Master and the pilot to sound the warning signal prescribed by sec. 43 of the N.H.B. Operating Regulations, to listen for signals that may be given by a downbound vessel and to carry out the manoeuvre safely with due regard for the right of way of other vessels. Therefore, a departure clearance is basically an information service to the departing ship re the safest period to effect the manoeuvre in the circumstances, co-ordinated with the issuance of a safety notification to all ships in transit in the area.

As far as safety of navigation is concerned, it is unimportant whether departure clearances emanate from the Harbour Master or the System authority. It is essential, however, first, that the person issuing the order is fully conversant with the latest traffic situation in the harbour and, second, that he has the necessary *expertise* to judge when a departure can be undertaken safely and without undue delay in the circumstances.

The change in procedure has not affected shipping. The Marine Traffic Control System provides the necessary liaison for ships in transit through the harbour to or from the Seaway. It relays to ships bound to the Seaway the Seaway Authority's instructions about permission to proceed, and furnishes the necessary co-ordination for departure clearances for ships proceeding from a berth or an anchorage position in the harbour. If a Seaway clearance is delayed or a ship has to undergo Seaway inspection, the System Traffic Controller orders the ship to an anchorage position at Longue-Pointe or an alternative anchorage area. Although this transit traffic is of no concern to the Harbour Authority, a conflict of jurisdiction is created when the System Traffic Controller allocates an anchorage position since, according to the National Harbours Board Act, the management of anchorage areas pertains to the Harbour Authority. It should be remembered, however, that in this respect Montreal harbour is a case of exception which is not covered in the present legislation: in addition to its functions as a harbour, it is also the approach to the Seaway and its anchorages serve as Seaway inspection and waiting areas. Therefore, it is considered that this factual situation should be recognized in legislation to resolve the existing conflict of jurisdiction.

The authorities responsible for Marine Traffic Control have reported that, by assuming responsibility for traffic management in Montreal, the safety practices that have been evolved through the years and which have proved efficient were continued. Traffic surveillance is achieved and infractions of the National Harbours Board Operating By-laws are reported to the Harbour Master.

The safety of a vessel is the final responsibility of the Master. A clearance to leave a berth or an anchorage position, or permission to enter

section 6 (which corresponds to the harbour) from either sector 5 or the Seaway, is given by the Marine Traffic Controlled after he has assessed the situation and considers it safe to do so. It is reported that frequently clearance is given or withheld after VHF discussion with the pilot involved direct from the bridge.

Since this harbour traffic control was imposed for reasons of safety, non-compliance with the traffic regulations and with orders received is a serious matter. Pilots and Masters often feel that the traffic restrictions are unwarranted, complain about long delays in obtaining the required clearance and do not always observe the requirements.

In addition to being an offence under secs. 127 and 128 of the National Harbours Board Act, subsec. 12(2) of the Montreal Pilotage District By-law makes it an offence for a pilot not to comply strictly "with all directions given by a Harbour Master relating to the mooring and unmooring or placing or removing of vessels" within the limits of the harbour.

In case of violation by a pilot, it has been the practice of the Harbour Authority to report the matter to the Pilotage Authority for necessary action. At the Commission's hearings, the representative of the Harbour Authority complained about lack of co-operation on the part of the Pilotage Authority in helping them to enforce the necessary traffic control. This prompted their recommendation that the pilots should come under the jurisdiction of the Port Authority.

Failure by the Pilotage Authority to keep the Harbour Authority informed about the outcome of complaints and reluctance to give any information when requested supported the charge of non-co-operation. It is obvious that the cause of this unsatisfactory situation lies in misapprehension as to the power of the Pilotage Authority to act as a tribunal, and provide a complete and fair trial, and the practice followed of disposing of complaints by administrative decision (vide Part I, pp. 373 and ff.). All too often investigation of a complaint has consisted only of seeking the pilot's version without calling the complainant as a witness. If the pilot admitted the violation, a fine or reprimand was imposed but, if he denied it, no further action was taken (Ex. 990).

The Montreal Harbour Master reports that the situation had improved considerably since that time. During the period 1965-April 1968 before responsibility for harbour traffic control was taken over by the St. Lawrence River Marine Traffic Control System, closer cooperation developed between the pilots and the Harbour Master, and there have been no serious violations by the pilots (Ex. 1539(w) ).



## COMMENTS

It is considered that the purpose of achieving safety of navigation is defeated if it becomes permissible to scatter safety rules in a maze of different regulations. For a given part of a waterway, all the applicable modifications to the International Rules of the Road should be contained in a single, specific, readily available set of regulations. At present, amendments to the rules of the road that apply only to the harbour of Montreal are found in both the St. Lawrence River Safety Regulations and the National Harbours Board Operating Regulations, many times amended, which cover all the harbours under the Board's jurisdiction. As a result, those modifications that apply to the harbour of Montreal are difficult to locate. They should be contained only in the regulations made specifically for that purpose under sec. 645 C.S.A., i.e., the St. Lawrence River Safety Regulations.

The departure clearance requirement is a safety feature that has become essential and must be retained—it should be legally provided for by an appropriate amendment to the Canada Shipping Act.

The Harbour Authority is right in stating that there is no excuse for pilots not complying with traffic instructions, since they are familiar with the traffic conditions and the physical features of the harbour which made the control necessary for the safety of navigation. The collision between S.S. *Manchester Merchant* and S.S. *Lionel* on December 3, 1963 (p. 736) no doubt would not have occurred if the pilot had asked for unberthing instructions as required.

The obvious and only satisfactory solution would be for the Harbour Authority to lay complaints directly before a regular tribunal under secs. 127 and 128 of the National Harbours Board By-law A-1. This is the only course of action in the case of violations committed by a Master; there should be no difference in the procedure because the violation was committed by a pilot. If it is considered that secs. 127 and 128 do not permit the direct prosecution of a pilot, steps should be taken to have this legislation amended to indicate specifically that a pilot in charge of a ship is responsible for complying with the harbour traffic regulations and the harbour traffic instructions, as was done in 1960 by an amendment to the Canada Shipping Act regarding the application of the collision regulations (subsec. 647(1) C.S.A.).

The problem is quiescent for the time being, since the Harbour Authority no longer exercises control over traffic in Montreal harbour. This function has been taken over by the St. Lawrence River Marine Traffic Control System (Exs. 1539(w) and (x)).

(ii) *Speed limit*

Section 35 of N.H.B. By-law A-1, subject to the general rule that speed should not be such as to endanger life and property, establishes the following maximum speed limits for the harbour of Montreal:

- for upbound vessels, 8 knots between Gas Buoy No. 149-M and the Longue-Pointe Signal Station, and 6 knots from that station to the Clock Tower in the upper part of the harbour;
- for downbound vessels, 10 knots between the Clock Tower and Gas Buoy No. 149-M.

It would be desirable to amend this regulation to state that speed is over the ground and not in relation to the stream, since downbound vessels require greater speed over the ground in order to keep steerage-way when proceeding with the St. Mary's Current. The text of the regulation should also be amended to provide present day reference points, since neither Gas Buoy 149-M nor the Longue-Pointe Signal Station now exist.

Although occasional complaints have been made against pilots for excessive speed, these regulations do not appear to be taken very seriously. While there was no patrol by the harbour police especially for the purpose, the average speed of vessels between two check points where their passage is recorded can easily be calculated at all times but this was done only infrequently. Three times in 1962, for instance, it was found that the cruising speed of all passenger vessels was above the prescribed limit. However, despite the fact that such vessels were all being navigated by a pilot, these violations were not reported to the Pilotage Authority, but only to the agents. Although no objections against the speed limit have been registered either by the pilots or the agents, it was intimated that the speed limits prescribed are too low to allow these vessels to keep the necessary steerage-way. The main objection to increasing the speed limit is danger of damage to shore installations caused by wash, since speed is one of the governing factors.

The Montreal harbour police have now (Jan. 1970) been provided with their own patrol boat and will be in a position to exercise effective control over water pollution, speed violations, general traffic and particularly small craft which create a serious safety hazard when they do not abide by the regulations, *inter alia*, remaining out of the regular shipping lanes (pp. 123 and ff. and p. 655).

(iii) *Notices to Shipping*

The Harbour Master is responsible for issuing Notices to Shipping to bring to the attention of vessels moving in the harbour temporary obstacles or circumstances that may affect the safety of navigation. These Notices are now being transmitted through the Information Service and the VHF network of Marine Traffic Control, and also through the coastal stations for ships not equipped with VHF.

These Notices are particularly necessary to warn traffic about obstructions created by dredging operations. They may serve to indicate the location of a wreck, e.g., *M.V. Federal Express*, until it is removed. They also serve as warnings about changes to the advertised depth alongside wharves through silting. The pilots expressed their general satisfaction with this system of information and their only complaint was that they were not consulted before dredging and other operations were undertaken or aids to navigation displaced or modified.

(iv) *Draught control—under keel clearance requirement*

This factor, which in Canada is legislated for only in the harbour of Montreal, concerns pilotage only indirectly but it was the subject of a specific recommendation by the Canadian Merchant Service Guild which wanted to have its application extended. The procedure being followed appears to be without legal foundation and is unwarranted in practice.

A provision of the "Rules and By-laws of the Office of the Port-Warden of the Harbour of Montreal" (Ex. 490) prescribes that:

"The Port Warden shall not issue his certificate or clearance to any vessel which in his judgment is too deeply laden to pass with safety through the ship channel between Montreal and Quebec.

No officer of Customs shall grant a clearance to any vessel for the purpose of enabling her to leave the port of Montreal for any port not within the limits of inland navigation, until the Master of such vessel produce to him a certificate from the Port Warden to the effect that all the requirements of these regulations have been fully complied with, . . ."

On the strength of this provision, the Port Warden has been fixing by unilateral administrative decisions the minimum depth of water that should be left between ships and the channel bottom (under keel clearance). The required depth has varied from time to time; as 1960, it varied between  $2\frac{1}{2}$  and  $3\frac{1}{2}$  feet depending upon the size of the vessel concerned (Ex. 491).

This control concerns pilotage indirectly in that in cases where it is applicable it relieves the pilots of the obligation to assess whether the ships to which they are assigned are too deeply laden for the channel. In many Districts, pilots have devised rules based on their common experience (vide Part II, p. 281; Part III, p. 91). However, these rules are only general guide lines since, on account of variable factors, each case must be decided on its merits by the pilot concerned. Since the prime responsibility for the safety of a ship rests with the Master, it is to be expected that undue risks will not be taken. Furthermore, a pilot is not obliged to navigate a vessel when it is not safe to do so. The Port Warden's decisions relieve the pilot of this responsibility in the few cases where they apply.

The authority for this power of the Port Warden is purported to be found in the special statute governing the office of Port Warden for the harbour of Montreal which predates Confederation and has not been amended since it was consolidated in 1882 (45 Vic. c. 45) (Ex. 490).



The Montreal Port Warden is appointed by the Governor in Council upon the recommendation of the Montreal Board of Trade which has power of control and supervision.

The only possible provision in the Act which could confer the power to establish an under keel clearance requirement is sec. 16 which makes it the responsibility of the Port Warden to certify, in the case of a "vessel loading at the Port of Montreal for any port not within the limits of inland navigation . . . whether she is in a fit state to proceed to sea or not; . . ."

It is apparent that this provision provides only for an appraisal of the ship's condition as to seaworthiness to engage in an ocean voyage and not in relation to the physical features of the channel either in the harbour of Montreal or on the St. Lawrence River.

This interpretation is substantiated when one considers the cases to which this purported power does not apply. It does not apply to movages; the Port Warden has not the power to prevent an incoming vessel from entering the harbour of Montreal by reason of her seaworthiness or her draught; he can not prevent a vessel from leaving for a sea voyage even on the ground of seaworthiness if the vessel has not loaded in Montreal harbour; he also lacks authority to prevent the departure of a vessel which will eventually go to sea if a clearance is not required because *en route* she calls at another port, such as Sorel, Trois-Rivières or Quebec, the reason being that the required appraisal is of the seaworthiness of the ship *per se* for a sea voyage and this can not be undertaken before loading is completed.

Nor can the Port Warden derive his power from the By-laws referred to earlier which were made by the Board of Trade pursuant to sec. 5 of the Act. The only regulations so authorized are merely matters of internal organization and procedure: "rules and regulations for regulating the office of Port Warden and the performance of his duties", and none exist for the purpose of giving him powers which he does not already possess under the Act. Significantly, such by-laws of internal character do not have to be sanctioned by the Governor in Council in contrast with the regulations established by the Board of Trade fixing the "tariff of fees to be paid to the Port Warden, for services performed by him and his deputies, by the masters or owners of sea-going vessels, and by others. . ." which can not be in force until approved by the Governor in Council.

Prior to August 29, 1934, the required depth under keel was 3½ feet. At the request of the Shipping Federation and after consultation with the pilots, the Board of Trade consented to reduce it to 2½ feet for ships not exceeding 8,500 tons deadweight.

In 1960, when the water level in the harbour fell, the shipping interests made representations to have the required clearance lowered. After study by representatives of the Port Warden's office and the shipping interests,

new rules devised and suggested by the Port Warden were accepted whereby under keel clearance varied, not according to deadweight but according to beam. The under keel clearance requirement varied between 2 feet 6 inches and 3 feet 6 inches. Beam was considered a controlling factor on account of the bends in the channel; a ship heels somewhat when turning and the larger the ship the greater under keel clearance is required to prevent touching.

The maximum permissible draught for a ship to which the requirement is applied varies from day to day according to the depth of water in the harbour. Every morning at 9 o'clock, the depth datum is reported to the Port Warden by the Harbour Master's office.

The Canadian Merchant Service Guild has recommended that the under keel clearance requirement be extended to all pilotage waters in Canada and be made the responsibility of the respective Pilotage Authorities.

This recommendation was a follow-up of a similar recommendation made previously by the Montreal pilots, in which they asked the Department of Transport to extend the under keel clearance requirement to the harbours of Sorel and Trois-Rivières. This recommendation was not acted upon because it was felt that the Canada Shipping Act did not empower the Minister of Transport to make such regulations. Furthermore, no consideration had been given to amend the Act in this regard.

#### COMMENTS

The practice of fixing under keel clearance is without legal foundation and has simply been allowed to continue unchallenged. It is repugnant that such rulings with far reaching consequences for the public can be made administratively by an absolutely arbitrary authority, particularly when they are not governed by legislative criteria, and when made do not become regulations, need not receive approval by higher authority and are final and without appeal.

Apart from the question of the legality of the practice in the harbour of Montreal, it is considered discriminatory and unwarranted. If it is believed that such control over under keel clearance should be effected in the public interest and for the safety of navigation, it should be extended to all vessels, inbound or outbound, coastal, inland or sea-going, and whether or not calling at another Canadian port before proceeding to sea. However, the fact that a large number of ships have been able to proceed when their draught was considered safe by their Masters and their pilots and the alleged requirement did not apply to them, without adverse effect on the safety of navigation in general, demonstrates that extending the requirement would be an undue imposition.

(b) *Sorel Harbour*

Sorel is a public harbour under the jurisdiction of the Department of Transport. It was proclaimed such by Order in Council dated July 15, 1874 (Ex. 511). It extends from the Montreal harbour downstream limit at the town of Tracy to the upstream end of Lake St. Peter and comprises about 12 nautical miles of the St. Lawrence ship channel. It also includes about four miles of the Richelieu waterway connecting the St. Lawrence River with the Hudson River in the United States, the controlling depth of which is six and a half feet.

All the harbour berthing facilities are situated on the south shore of the St. Lawrence River and are mostly concentrated on both sides of, and from the estuary of, the Richelieu River.

The approach from the ship channel to the main berths is through an area dredged to a depth of 32 feet which remains constant since there is no tide. The principal wharves are situated on the east side of the entrance to the Richelieu River and consist of Dock No. 1 and Dock No. 2 which extend into St. Lawrence River and create Lanctot Basin.

*Dock No. 1* (Grand Quai) is owned by North American Elevators Limited which operate a grain elevator on it. The available depth alongside is 29 feet along the outer face, 25 to 26 feet in Lanctot Basin and 30 feet along the outer sides.

The other main wharves belong to Marine Industries Limited, a shipyard company situated on the west side of the Richelieu River, with 20 feet alongside, and the Quebec Iron Titanium Corporation wharf facing the St. Lawrence ship channel about three-quarters of a mile upstream with 30 feet alongside.

Berthing and unberthing are not difficult and vessels manoeuvre without tugs, although such assistance could be obtained from Marine Industries.

The Sorel Harbour Master does not control traffic in the harbour and only occasionally allocates berths since all except two are privately owned or operated.

In the absence of a controlling local authority, Marine Traffic Control can not provide shipping with ship-to-harbour service as in National Harbours Board ports, and ships' requests are simply relayed to the parties concerned. Control liaises with the manager of the privately-owned grain elevator and also with the local agent who handles most vessels. In normal circumstances, these officials issue berthing instructions direct *via* coastal radio stations but, in case of urgency, such as a last minute change of orders, Control will pass the instructions to a ship over its VHF network. In the event of a ship arriving without orders, Control directs her to a convenient anchorage off Sorel (Ex. 1539(e)).



(c) *Trois-Rivières Harbour*

This harbour comes under the jurisdiction of the National Harbours Board. Its limits are defined in the schedule to the National Harbours Board Act: it extends over two miles eight cables of the St. Lawrence ship channel and includes the estuary of the St. Maurice River and all waters up to the tidal high water mark of that river. It is situated  $67\frac{1}{2}$  nautical miles west of Quebec and  $73\frac{3}{4}$  miles east of Montreal.

The area for the changeover of pilots for ships in transit is in the natural enlargement of the channel in the upper part of the harbour off Pointe-des-Ormes.

All the berthing facilities are located on the north shore of the river and, except for Cap-de-la-Madeleine pier, west of the St. Maurice River. The wharves extend over 9,188 feet of waterfront and are parallel to the River St. Lawrence ship channel, except for those inside a basin at the west end where the grain elevators are situated. In the basin, the available depth is 35 feet; elsewhere, 30 feet. There is very little tidal influence, the maximum rise and fall being about one foot. Except for the Canadian International Paper Company's wharf, all wharves are owned and operated by the National Harbours Board.

Berthing and unberthing present little difficulty and tugs are not needed.

The Port Manager's responsibility for traffic control in the harbour is limited to allocating berths. He uses the VHF network of the Marine Traffic Control System like the Quebec Harbour Master in his area (p. 184) (Ex. 1539(e)).

(4) MARITIME AND PILOTAGE TRAFFIC

Maritime traffic in the Montreal District is of the same nature as in Quebec (p. 148) except for the limitation caused by the 35-foot controlling depth of the dredged channel above Trois-Rivières.

As in the Quebec District, the D.B.S. statistics, which are computed on the basis of arrivals, do not convey a complete picture of the overall traffic since many ships are in transit from or to the St. Lawrence Seaway. However, the pilotage statistics provide a reasonably good picture of the significant traffic (for the extent of exemptions to the compulsory payment of dues, vide p. 569, and for the incidence of non-exempt vessels dispensing with pilots, vide p. 618). The following table contains the statistics available from D.O.T. machine data 1961-1969 (except 1962 and 1965) showing on an annual basis the number of vessels which paid pilotage dues (trips vessel), their aggregate and average NRT and the percent increase or decrease over 1961.

# MONTREAL RIVER PILOTS

Year	Aggregate NRT of Vessels Paying Pilotage Dues		Total Trips (vessel) with Pilots		Average NRT of Vessels Paying Pilotage Dues	
	Tonnage	% Increase since 1961	Number	% Increase or Decrease since 1961	Tonnage	% Increase since 1961
1961	38,944,901	0%	10,535	0%	3,696.7	0%
1962	n/av.	—	10,171	—3.5	n/av.	—
1963	41,645,979	6.9	10,071	—4.4	4,135.2	11.9
1964	46,755,933	20.1	10,393	—1.3	4,498.8	21.7
1965	n/av.	—	n/av.	—	n/av.	—
1966	59,756,074	53.4	11,739	11.4	5,090.4	37.7
1967	53,065,118	36.3	10,246	—2.7	5,179.1	40.1
1968	53,196,545	36.6	9,880	—6.2	5,384.3	45.7
1969	48,426,568	24.3	9,049	—14.1	5,351.6	44.8

SOURCE: EX. 1539(aa).

The following table is compiled from D.B.S. statistics of arrivals at the main ports in the District on a yearly basis for the period 1959-1967 inclusive. The *all vessels* figure refers to all arrivals at the port excluding, however, such small vessels as fishing vessels, tugs and vessels of less than 15 NRT, and naval vessels. This figure is compared with the special statistics prepared by D.B.S. for this Commission referring to arrivals of vessels of 250 NRT and over, i.e., vessels more likely to employ a pilot, in order to show the incidence of small vessels calling at these ports. For the two National Harbours Board ports of Montreal and Trois-Rivières, the N.H.B. statistics of arrivals of commercial vessels have been added. The main difference between the two *all vessels* figures is that the N.H.B. counts all arrivals (except naval vessels) including fishing and small vessels under 15 NRT.

## (5) IMPROVEMENTS TO, AND MAINTENANCE OF, THE SHIP CHANNEL

The first dredging operations were undertaken in 1844 when an attempt was made to dredge a straight channel across Lake St. Peter. This plan was abandoned in 1847 because it proved too extensive and too costly; instead, it was decided merely to deepen the sinuous natural channel. The existing channel follows the same route but has been enlarged and deepened, thus explaining its numerous curves in Lake St. Peter.

Maintaining and improving the ship channel is the responsibility of the Department of Transport (St. Lawrence Ship Channel Division). From time

COMPARATIVE STATISTICS FOR ARRIVALS OF VESSELS IN THE MAIN  
MONTREAL DISTRICT PORTS

	1959		1960		1961		1962		1963	
	No.	Average NRT	No.	Average NRT	No.	Average NRT	No.	Average NRT	No.	Average NRT
<b>MONTREAL HARBOUR:</b>										
D.B.S.—Vessels of 250 NRT and over .....	5,779	2,417.4	5,525	2,614.7	5,362	2,956.5	5,095	3,212.8	4,841	3,390.7
D.B.S.—All vessels.....	6,779	2,074.7	7,503	1,935.3	6,148	2,624.4	5,579	2,946.5	2,766	5,950.6
N.H.B.—All vessels.....	6,482	2,403.2	6,211	2,705.2	6,092	3,000.8	5,913	3,136.9	5,656	3,236.3
<b>TROIS-RIVIÈRES:</b>										
D.B.S.—Vessels of 250 NRT and over.....	1,106	2,914.0	957	3,090.8	1,068	3,349.3	963	3,433.1	971	3,897.7
D.B.S.—All vessels.....	2,914	1,197.0	2,577	1,229.2	2,902	1,338.1	2,272	1,537.4	2,046	1,933.9
N.H.B.—All vessels.....	3,150	1,110.6	3,029	1,121.0	3,329	1,169.7	2,967	1,294.9	2,790	1,487.2
<b>SOREL:</b>										
D.B.S.—Vessels of 250 NRT and over.....	584	2,561.5	446	2,886.3	622	3,354.8	465	3,140.0	413	3,295.0
D.B.S.—All vessels.....	725	2,071.5	687	1,906.9	804	2,619.9	601	2,456.4	573	2,399.3
<b>CONTRECOEUR:</b>										
D.B.S.—Vessels of 250 NRT and over.....	297	3,341.2	129	4,203.5	121	5,033.5	97	5,382.5	86	5,558.3
D.B.S.—All vessels.....	297	3,341.2	129	4,129.6	127	4,796.6	100	5,221.8	86	5,558.3



COMPARATIVE STATISTICS FOR ARRIVALS OF VESSELS IN THE MAIN  
MONTREAL DISTRICT PORTS

	1964		1965		1966		1967		% Increase or Decrease 1959-1967	
	No.	Average NRT	No.	Average NRT	No.	Average NRT	No.	Average NRT	No.	Average NRT
<b>MONTREAL HARBOUR:</b>										
D.B.S.—Vessels of 250 NRT and over.....	5,177	3,339.8	5,615	3,593.0	5,593	3,795.1	5,153	3,778.8	-10.8	56.3
D.B.S.—All vessels.....	5,544	3,126.0	6,029	3,355.4	5,956	3,572.9	5,541	3,522.9	-18.3	69.8
N.H.B.—All vessels.....	6,016	3,275.4	6,318	3,426.1	6,216	3,718.2	5,805	3,633.0	-10.4	51.2
<b>TROIS-RIVIÈRES:</b>										
D.B.S.—Vessels of 250 NRT and over.....	978	3,903.8	926	4,184.5	904	3,953.5	826	3,613.8	-25.3	24.0
D.B.S.—All vessels.....	1,627	2,397.2	1,710	2,906.1	1,735	2,120.9	1,678	1,846.3	-42.4	54.2
N.H.B.—All vessels.....	2,325	1,704.9	2,061	1,910.5	1,876	1,981.1	1,850	1,752.3	-41.3	57.8
<b>SOREL:</b>										
D.B.S.—Vessels of 250 NRT and over.....	575	3,818.5	537	4,454.3	559	5,066.5	382	5,644.8	-34.6	120.4
D.B.S.—All vessels.....	803	2,757.7	776	3,111.6	716	3,970.7	603	3,608.8	-16.8	74.2
<b>CONTRECOEUR:</b>										
D.B.S.—Vessels of 250 NRT and over.....	96	4,420.3	111	4,088.6	142	5,332.4	109	5,489.7	-63.3	64.3
D.B.S.—All vessels.....	100	4,244.3	111	4,088.6	143	5,296.4	113	5,296.8	-62.0	58.5

Sources: Exs. 15, 479 and 1483.

to time, it has been the Department's practice to set up advisory committees to assess the situation at a given moment and obtain the suggestions and recommendations of all interested parties (vide pp. 71-72).

Following the recommendations of these committees, the channel was deepened from 30 to 35 feet (completed in 1952), and an extensive improvement program was undertaken to enlarge it from 550 feet to a minimum of 800 feet, to improve the curves and to add further improvements aimed at reducing maintenance.

Extensive studies were made of the currents and the physical features of the river bed before these improvements were commenced, *inter alia*, by testing the effect of the proposed modifications on a large hydraulic scale model of the River.

Since the deepening of the channel was completed in 1952, the remainder of the improvement programme has been in progress, priority being given to certain areas which were more dangerous to navigation, such as the shoals at St-Augustin and Cap-Santé and the Richelieu Rapids.

In that part of the River where the tide is not felt, i.e., above Trois-Rivières, deepening and enlarging the channel have resulted in lowering the level a few inches as far as the harbour of Montreal. This undesirable effect had to be counteracted by construction, e.g., weirs across the River outside the channel, or by dumping dredging *debris* in areas indicated by studies on the hydraulic scale model.

In a letter dated January 12, 1970 (Ex. 1539(u)), the Department of Transport gave the following progress report on the ship channel improvement programme:

"The following capital works were carried out this year in addition to the regular maintenance which insured that the advertised depths in the channels were maintained at; 20' L.N.T. in the Saguenay River, 30' L.N.T. in the North Traverse below Quebec, 35' at chart datum between Quebec and Montreal and 28' 6" at chart datum in the non-canal reaches of the Seaway between Montreal and Lake Ontario.

#### *Contrecoeur*

The emergency anchorage at Contrecoeur was completed this year and made available to navigation during the latter part of the summer. The depth of the anchorage is 35' at chart datum.

#### *Lac St. Pierre*

The widening of the channel in Lac St. Pierre progressed exceptionally well during the past year and some 40% of the widening was completed in the second year of the contract. At present, only about 10% is left to complete the entire widening in this reach. A channel of 1,000' in width was provided at the head of Lac St. Pierre in the Ile aux Raisins Course. In addition, a channel of 800' wide was provided between curve No. 1 and Curve No. 2. These curves were widened to 1,200 and 1,100' respectively. This entire complex was made available to navigation in the late fall and is being used during winter navigation this year.

By mid-summer of 1970, the entire channel on Lac St. Pierre will have been widened to 800' which was the last remaining reach in the Ship Channel between Montreal and Quebec that was less than 800'.

*Nicolet Curve*

The widening at Nicolet Curve on the North side of the channel was undertaken earlier in 1968 and was 85% completed by late fall. With the completion of the widening of Curve No. 3, this entire section will be opened to navigation by the middle of next summer.

*Trois-Rivières Shoal*

The fourth and final capital works project undertaken by the Department was the removal of the shoal at Trois-Rivières. After three years of dredging operations, this work is practically completed. It is expected that this shoal will be completely removed in the early part of next summer. 25' of water is presently available at chart datum over this shoal.

In a general way, I am pleased to report to you that the improvements in the St. Lawrence Ship Channel which will be completed by the middle of next summer, represent a substantial improvement in the St. Lawrence Waterway. The minimum width of the Ship Channel will then be 800' along its entire length and at least 1,000' and up to 1,600' in the various curves. Cap à la Roche is the only curve whose width is inferior to 1,000'. Model studies are contemplated to increase its present width of 800' to at least 1,000'."

To maintain a channel depth of 35 feet, maintenance dredging has to be carried out periodically to offset the effects of sedimentation and remove obstacles such as boulders that are occasionally carried into the channel by bank ice during the runoff period.

A depth survey is carried out every year immediately after the runoff, and a special survey is made whenever a report is received that the required depth is no longer obtained in an area. These depth limitations are immediately brought to the attention of shipping by Notices to Shipping and dredging is carried out to remedy the situation.

Silting is particularly marked in Lake St. Peter, off Cap à la Roche and toward the Richelieu Rapids; there is also a particular problem between Trois-Rivières and Batiscan where the depth may vary three or four feet, although this may be partly compensated for by the tide.

There is always the possibility of this narrow channel being closed following a shipping casualty—so far, this has occurred on only a few occasions and for a short period. In 1954, traffic was stopped briefly in Montreal when M.V. *North Gaspé* caught fire and exploded at her berth. On April 24, 1957, traffic was stopped for 3 hours to permit rescue operations when the tug *Yvon Dupré* overturned and sank while assisting S.S. *Nyland* at wharf No. 16 in Montreal. On May 5, 1960, traffic in the harbour was interrupted for 13 hours 40 minutes, plus a short period during rescue operations, when M.V. *Federal Express* broke loose from pier No. 28 after being struck by S.S. *Polaris* and drifted down until she sank off Laurier wharf. On August 19, 1960, traffic was temporarily stopped on Lake St. Peter when M.V. *Belle Isle II* went aground and caught fire after a collision with the vessel *Holmside*. On November 16, 1961, traffic was interrupted for 5 hours 45 minutes after M.V. *Glynn* grounded on the north side of the channel in the narrow section of the harbour below Longue-Pointe. On December 8, 1963, traffic was stopped for 5½ hours following



the collision between M.V. *Fort Albany* and M.V. *Procyon*. There was also a short interruption on April 10, 1965, when M.V. *Transatlantic* went aground in Lake St. Peter and caught fire after a collision with M.V. *Hermes*.

#### (6) AIDS TO NAVIGATION

The responsibility for establishing and maintaining aids to navigation west of Portneuf Basin as far as the Beauharnois Canal in Lake St. Louis lies with the District Marine Agent of the Department of Transport located in Sorel.

The ship channel in the Montreal District, which is narrow, winding and dredged for over 100 miles, is provided with an array of aids to navigation of all types, except light houses and radio beacons which are more appropriate for open water.

All straight courses in the dredged channel and in most other sections have automatic range lights with emergency lights in case of failure. In addition, the channel is lined with floating buoys lit and unlit; the limits on the bends are indicated by floating buoys fitted with radar reflectors and flashing lights.

The range lights remain in operation throughout the year, except those erected in Lake St. Peter which have to be removed because the caissons on which the towers rest lack clearance to afford protection against ice.

All floating aids are removed before ice forms about the end of November or the beginning of December. They are replaced in position as soon as possible after the runoff between April 7 and April 15.

The range lights are normally reliable on account of the emergency light system and also because they are not likely to be displaced since they are erected on land. As soon as an emergency light is observed in operation, repairs are effected so that there is little possibility of a complete breakdown. It was found that range lights erected in Lake St. Peter could be displaced more or less gradually over a long period of years on account of the nature of the bottom. This is claimed to have been the *causa causans* of the collision between S.S. *Transatlantic* and M.V. *Hermes* on April 10, 1965, when, in the absence of floating aids and setting course by range lights no longer in position, S.S. *Transatlantic* came too close to the bank, went out of control, crossed the channel and collided with the *Hermes* (pp. 727-9).

The range lights in a narrow channel normally indicate the centre of the channel but this is no longer the case because most sets have not yet been relocated to coincide with the new centre after the channel was widened. They are still aligned with the channel but generally parallel to the new centre to one side or the other. However, this situation is clearly indicated on the charts.

Floating aids are displaced for a number of reasons. As soon as a case occurs, a Notice to Shipping is disseminated and the buoy is placed back in position, unless the displacement was associated with dredging operations. Negligence by dredge operators to report displaced floating aids immediately has concerned the pilots, but they are on the alert since dredging areas are published regularly in Notices to Shipping.

Unlit buoys placed at strategic points during the winter are not always visible because they are constructed to submerge under the pressure of ice rather than be displaced. Nevertheless, they are often displaced despite this feature and, therefore, should be used with caution.

Improvements are constantly made to the network of aids to navigation and to individual aids, many as a result of the complaints and suggestions of those using the ship channel.

At times, however, improvements create other problems. For instance, when complaints were received regarding the low intensity of some range lights, the District Marine Agent tried to improve them by doubling the intensity with unsatisfactory results. He then adopted a new type of range light whose main feature was a concentration of light through a narrower beam. It proved satisfactory when installed in 1963 on one set of range lights on a trial basis. Both the pilots and the Masters who were consulted expressed their satisfaction. Therefore, it was decided to modify the other range lights accordingly. The narrower beam which is quite satisfactory when the lights are used as leading lights made the lights invisible from other angles, thereby depriving the pilots of the other uses to which they put certain lights as simple beacons, especially during the winter season when floating aids are not available. This failure has since been corrected by the addition of side lights if required.

Since the Commission's public hearings many changes have been effected in aids to navigation. These changes were advertised in Notices to Mariners at the time of their occurrence. The Department of Transport in a report to this Commission dated October 29, 1969 (Ex. 1539(f)) summed up these improvements as follows:

"General upgrading of aids is a continuing process but many changes were also required to conform to channel improvement. The changes include relocating ranges to correspond to the new channel alignment, upgrading the equipment during the change, etc. The corresponding buoy changes were also made.

In Lake St. Peter two new range piers were built to replace old towers in the center of the lake. Other ranges were relocated to mark the widened channel. One pier at the east end of the lake was abandoned and the light relocated on shore. Further downstream at Barre à Boulard the range light was moved from a pier to the shore. In this case, however, a light was maintained on the old pier as a beacon only. The object of moving the ranges ashore was to preclude damage by ice.

Where indicated by pilots that the range light is used also as a beacon, additional lights visible over the required arc are exhibited from the same struc-

ture. Colour of range and other lights have been changed, as necessary, to make them more easily identifiable against their background.

The buoyage system has been revised and improved by the addition of many radar reflectors, distinctive characteristics for buoys marking turns, and by the conversion of the port hand buoy lights from white to green. Specific anchorage areas have been marked with special buoys.

In 1967 a 9-foot channel was marked from near Sorel to Montreal. The purpose of this was to keep small craft clear of the main channel and so avoid embarrassment to large vessels.

Frequent meetings with the Pilots Association help keep us aware of changing requirements."

#### (7) ST. LAWRENCE RIVER NAVIGATION SAFETY REGULATIONS

For the nature of these regulations (Ex. 1461(j)), vide p. 177.

In addition to secs. 10, 11 and 12 (vide p. 177) which apply to the Montreal District as well, the regulations contain the following provisions that apply specifically to that part of the River St. Lawrence which is within the Pilotage District of Montreal:

- (a) Section 4 prohibits the use by small vessels, i.e., drawing less than 9 feet, and by barges and rafts of the ship channel in Montreal harbour down to Lanoraie, except to cross the deep water channel at the Varennes curve, unless special permission is obtained in advance from the Harbour Master, and in Lake St. Peter between the upper end of Batture St-François and Pointe St-François.
- (b) Where ice conditions prevail, no vessel between the head of Montreal harbour and the western limits of Quebec harbour may proceed at a higher speed than that set for the area by the Chief, St. Lawrence Ship Channel. This provision is obviously designed to prevent bank ice from becoming detached by vessels' wash and blocking the ship channel (sec. 14) (vide p. 657).
- (c) Sec. 15 provides for signals to be given between ships overtaking. Between Victoria Bridge (except in the approach to the Seaway) and the western limit of the harbour of Quebec, the overtaking vessel must give one prolonged blast at a distance of about one-half mile from the other vessel. This signal must be acknowledged with a similar signal by the vessel being overtaken, if the proposed passing is considered safe and practicable, in which case the overtaken vessel must decrease speed and take the port side of the channel. When the overtaking vessel arrives close to the other vessel, it shall reduce speed maintaining only sufficient to enable it to pass to starboard. If the vessel being overtaken considers it unsafe to allow the other vessel to pass to starboard, the acknowledgement signal should be followed after an interval of one minute by a short blast after which the vessel being overtaken takes the starboard side of the channel and the other passes to port.



(8) D.O.T. MARINE INFORMATION AND  
TELECOMMUNICATION SERVICES

At the time of the Commission's hearings, many complaints were voiced against the telecommunications network of marine coastal stations in the Montreal District as well as in the Quebec District.

This situation has since been corrected by improvements to the coastal station network (as was done below Quebec to assure full coverage and improve efficiency), and by the creation of the Marine Traffic Control System, which superseded the former Marine Reporting Service (p. 178). With its new VHF network it has provided a reliable means of ship-to-shore communications for transmitting information on safety of navigation and essential messages to facilitate the provision of pilotage services, and limited traffic control within the harbours of Montreal and Trois-Rivières. For full description and details of this service, reference is made to pp. 180 and ff.

For Marine Traffic Control purposes the sections of the ship channel contained in the Pilotage District of Montreal come under the jurisdiction of the two Control Centres. The jurisdiction of the Quebec Control Centre extends upstream to the downstream limit of the harbour of Montreal at Tracy, and the Montreal Control Centre is limited to the harbour of Montreal extending from Tracy to the Seaway. It contains only two sectors, No. 5 which extends from Tracy to Marien Street wharf (Berth 110), and sector No. 6 extending from there to the upper limit of Montreal harbour. There are four reporting points, three situated in sector No. 5 at Tracy, Contrecoeur and Cap St-Michel, and one at the sector change point, Berth 110.

The jurisdiction of the System Control Centre in Montreal coincides with the territory of the harbour of Montreal and the Centre provides the sole means of communication for harbour traffic control purposes, for obtaining clearances and instructions to enter the Seaway and for obtaining berthing instructions from the Harbour Master (Harbour Traffic Control is studied on pp. 634 and ff.). Other correspondence *via* telecommunications between ships and the Montreal harbour authorities is through the marine coastal stations.

The system performs the same function for the allocation of berths at Trois-Rivières. For other ports and landings, e.g., Sorel, the system will convey to officials or other persons concerned a ship's request for berthing instructions, if received on its VHF network. Except in cases of emergency, instructions by the persons concerned are communicated to the ship through coastal radio stations.

Similarly, the system headquarters serves as a liaison between ships and the Pilotage Authority for the transmission of pilotage messages, whether the vessel is proceeding upstream on the St. Lawrence River or downbound in the Seaway. If the vessel is in the Seaway, the messages are routed to the

system headquarters through the Seaway Traffic Control System with which liaison is maintained.

In addition, in the harbour of Montreal, a special channel on the VHF network of the system is provided for direct ship-to-tug communications (p. 746).

For ships that are not equipped with VHF, harbour traffic control correspondence and pilotage messages are also passed through the system headquarters which liaises for this purpose with the marine coastal stations. For pilotage correspondence affecting the Montreal Pilotage District, this should be a rare occurrence since all ships arriving from the Seaway must be equipped with VHF, and for those upbound, if pilots are employed, they bring with them portable VHF sets beginning at Les Escoumins, if ships are not so equipped.

#### (9) WINTER NAVIGATION

Winter navigation is increasingly difficult above Quebec because of the physical features of the River and the ship channel, and above Trois-Rivières because of the absence of tide. The cluster of islands above Lake St. Peter and the large shallow banks along the dredged channel regularly cause ice jams which must be broken up by icebreakers. The wide banks bordering the comparatively narrow channel cause other difficulties: the ice floes take the direction of the cross-currents and ships are in danger of grounding as they are pushed outside the channel; if the ice is fast to the bank, a ship's speed must be such that the wash does not loosen the ice which may then obstruct the channel. For this reason, sec. 14 of the St. Lawrence River Safety Regulations provides for an administrative control of the maximum permissible speed in the Montreal District during the winter months (p. 655). For general peculiarities of winter navigation, vide pp. 197 and ff.

Because of these physical features, ice conditions during the runoff period (vide p. 198) become an insuperable obstacle and bring navigation to a halt.

Despite these difficulties, except during the runoff period and when ice jams form and must be broken up, vessels strengthened for ice proceed to Montreal in increasing numbers throughout the winter season.

This type of navigation has been rendered less hazardous by the Ice Information Service whose activities were extended in January 1967, to include Montreal. The operations' centre for the St. Lawrence River area is Quebec. For the description of this service, and for other information regarding winter navigation, refer to pp. 200 and ff.

In 1965, in their brief to the Deputy Minister of Transport (vide p. 202) the pilots protested against the inadequate pilot vessel service at Trois-Rivières during the winter (vide p. 744). The Department of Trans-

port then undertook to transfer one of the Les Escoumins pilot vessels to Trois-Rivières for winter service if the local operator was unable to supply a satisfactory vessel. This, however, did not become necessary because a new, larger launch, which was built by the local operator for that purpose, became available for the 1966/67 winter season and proved suitable (Ex. 1539 (g)).

The following table p. 659 shows the total number of trips upbound and downbound divided into full transits and half transits during the winter season as defined in the pilotage regulations, i.e., December 1 to April 8, divided by periods in order to show true winter traffic as opposed to movements of vessels not strengthened for ice at the end of the regular season before severe winter conditions set in, or at the beginning of the regular season immediately after the runoff period. For preparation of this table, complete data were available for the five seasons from 1960/61 to 1964/65, a more complete analysis of which appears as Appendix D. For the four seasons 1965/66 to 1968/69, the only statistics available are those from computer data which give only the total for each period. However, the breakdown of the previous years suffices to provide a sufficiently accurate portrayal of the distribution of these totals for the purpose of this Report.

This table shows that true winter traffic (between January 1 and March 31) is growing steadily but is slight compared to the traffic during the normal navigation season.

The analysis (Appendix D) of the statistics for the five winter seasons 1960/61-1964/65 provides some information about the nature of winter pilotage. For instance, during the 1964/65 season, out of 972 trips, 174 were interrupted because of darkness, 29 for ice and 46 for other reasons; between January 1 and March 15, only 10 vessels not strengthened for ice succeeded in making a partial transit, and none a complete transit.

## 2. NATURE OF PILOTAGE SERVICE

Pilotage in the District of Montreal is essentially river pilotage—ship handling at the various berths in the harbour of Montreal and other harbours in the District is only part of the river trip and in no harbour, not even Montreal, are berthing and unberthing so difficult as to require a special group of pilots. (The wharves on the east side of Quebec harbour present many more difficulties.) As seen earlier (pp. 573 and ff.), the reasons for the creation of a separate group of harbour pilots were totally different.

As is to be expected, few ships except very small ones and regular traders dispense with pilotage services, even less so than in the Quebec District. Ship-owners do not permit their vessels to ply Montreal District waters unless their navigation is entrusted to a person well acquainted with the ship channel. However, the situation regarding movages is different in Montreal harbour.



## MONTREAL RIVER PILOTS—WINTER NAVIGATION

Winter Season	Grand Total Winter Season December 1—April 8			December 1—31			January 1—April 8						Total Trips Jan- uary 1— April 8		
	Full* Transit	Half† Transit		Total Trips	Full* Transit	Half† Transit		Total Trips	April 1—April 8		Total Trips				
		Lower‡ Sector	Upper§ Sector			Lower‡ Sector	Upper§ Sector		Full* Transit	Upper§ Sector					
1960-1961	340	57	88	485	46	78	28	2	4	34	8	9	6	23	57
1961-1962	428	65	101	594	48	95	58	13	3	74	28	4	3	35	109
1962-1963	592	73	64	729	51	58	86	14	4	104	10	8	2	20	124
1963-1964	898	119	153	1,170	78	120	130	27	14	171	114	14	19	147	318
1964-1965	838	53	81	972	43	59	210	10	12	232	102	0	10	112	344
1965-1966	—	—	—	n/av.	—	—	n/av.	—	—	409	—	—	—	216	625
1966-1967	—	—	—	1,679	—	—	—	—	—	453	—	—	—	182	635
1967-1968	—	—	—	1,741	—	—	—	—	—	547	—	—	—	142	689
1968-1969	—	—	—	1,555	—	—	—	—	—	417	—	—	—	153	570

\*Counted as two trips—Quebec-Montreal (upbound) and Montreal-Quebec (downbound).

†Counted as one trip—upbound and downbound traffic‡§.

‡Quebec—Trois-Rivières (upbound) and Trois-Rivières—Quebec (downbound).

§Trois-Rivières—Montreal (upbound) and Montreal—Trois-Rivières (downbound).

SOURCE: Ex. 1464(f) (vide also Appendix D).

For statistics on the number of non-exempt ships dispensing with the services of river pilots for trips and of harbour pilots for movages in the harbour of Montreal, reference is made to the tables pp. 618 and 620. But even the incidence of movages is very small compared to the aggregate.

Despite the fact that the Pilotage Authority has reduced statutory relative exemptions considerably by its By-law (p. 569) and has not provided for the exemption of non-Commonwealth small vessels (Part I, p. 227), it does not enforce the ensuing compulsory payment on them, thus indicating that pilotage need not be made compulsory for small vessels, whether or not they are regular traders. It is considered that, until the present Act is superseded by a new pilotage statute, this *de facto* exemption should be covered by regulations made by the Pilotage Authority under subsec. 346(c) C.S.A.

Despite the great difficulties presented by the physical features of the River and the ship channel and those created by the weather, it is possible for a non-regular trader to dispense with a pilot, provided he proceeds slowly and with great caution and stops in adverse conditions. But such manœuvres in the narrow ship channel would be dangerous because vessels proceeding at normal speed would have to overtake slower vessels.

The vessels that dispense with pilots for movages but pay dues are mostly lake vessels whose Masters are accustomed to berthing and unberthing them. Prior to the opening of the St. Lawrence Seaway, it had been the policy of the Pilotage Authority to permit the officers of small lakers entering the harbour of Montreal through the Lachine Canal to berth and unberth their ships, and not to apply compulsory payment to them.

### 3. ORGANIZATION

The administrative structure of the pilotage service in the District of Montreal is, except for a few details, the same as in the District of Quebec. The Minister of Transport is the Pilotage Authority; the District is administered at the local level by a public servant—a D.O.T. officer, the Supervisor of Pilots, who, however, also performs similar functions for the adjacent District of Cornwall (vide p. 931). For further details as to the powers and responsibilities of the District Supervisor of Pilots, vide pp. 212 and ff. and Part I, pp. 289 and ff.

In 1959, with the aim of ensuring better co-ordination between the various organizations providing pilotage services throughout the St. Lawrence waterway, the office of Regional Superintendent of Pilots was created with surveillance responsibility over the Districts of Quebec, Montreal and Cornwall, and with liaison responsibility between the three Districts and between the Districts and Ottawa headquarters. For further details, vide pp. 221 and ff.

The situation with regard to the Pilots' Committee is the same as in the

Quebec Pilotage District (vide pp. 214 and ff.) except that the By-law provision does not specify the number of elected pilots who form the committees, and the fact that there are two committees in the District to represent the two groups of pilots. As in the Quebec District, no special elections are held to designate the members of the Pilots' Committee, the practice being that this function is automatically exercised by the Board of Directors of the two Pilots' Corporations, despite the fact that in the case of the river pilots their Corporation is not fully representative since a number of pilots have refused to join it. Up to 1968, a semblance of legal representation was maintained by the fact that the Corporation's Board of Directors was also the Board of the Association, a situation which no longer exists since the Association was allowed to lapse when the deed expired in 1968 (vide p. 682).

### (1) MONTREAL ADVISORY COMMITTEE

At the end of 1958, the Pilotage Authority set up an Advisory Committee comprising representatives of the major parties interested in pilotage. This committee, like the one in Quebec, was also shortlived. For the background of the Advisory Committees their purpose, powers and responsibilities, reference is made to pp. 217 and ff.

The Montreal Advisory Committee engaged in activities which were unlikely to prove successful:

- (a) It was used as a forum to discuss and agree upon organizational matters concerning which the committee members had conflicting interests. Since the final authority lay outside the committee, when open negotiations within the committee failed, subjects were pursued by direct representation to the Pilotage Authority in Ottawa and decisions were taken and imposed without a meeting of all the parties concerned, although they were members of the committee, to inform them of the representations and give them an opportunity for rebuttal.
- (b) The committee also tried to act as a quasi-court to discipline pilots. Since the committee consisted of the same representation as in Quebec, except for the pilots' representatives, the procedure followed was the same. The committee studied the report of the Preliminary Inquiry, obtained further evidence if necessary and re-examined the pilot concerned who was allowed the assistance of his lawyer. The committee's findings and recommendations were generally unanimous but out of frustration it ceased to function as a quasi-tribunal. The Shipping Federation's representative, the late Captain Matheson, charged that not only were the committee's recommendations not followed by the Pilotage Authority but the com-



mittee was not even informed of the final disposition of a case or the reasons for the Pilotage Authority's contrary decisions.

Since the activities of the Advisory Committee as a quasi-court in the District of Quebec have been reviewed in detail, it is not considered necessary to review also those of the Montreal Advisory Committee in order to demonstrate why it failed. However, a brief review of the committee's activities as a negotiation forum is revealing and shows the need for establishing a procedure for orderly, open presentations by opposing parties (vide the proposal by this Commission in General Recommendation 19, Part I, p. 515).

The first meeting, which took place August 27, 1958, was an organization meeting for the purpose of studying the committee's terms of reference and devising rules of procedure. The three following meetings, held November 7 and 27, 1958, and January 29, 1959, were for the purpose of studying, first, the method of recruiting and training river pilots and, second, the feasibility and advisability of abolishing the special pilot system and replacing it with a grade system.

On the first point, opinions were divided. The shipping interests advocated recruiting pilots from the ranks of qualified, experienced mariners holding a Master's certificate, using advertisements when required. It was suggested that a short apprenticeship of five or seven months would then suffice for such candidates to acquire the necessary local knowledge. These views were opposed by the pilots: they urged that the existing system of recruiting through an extensive apprenticeship be retained with some improvements. The pilots' point of view prevailed but it was not until the 1961 revision of the District By-law that their suggested improvements were implemented (pp. 570 and ff.).

An agreement was promptly reached on the second question. Some difficulties arose over a side issue: the control to be exercised over the distribution of the dues derived from the additional charge to be imposed on Class A ships. The shipping interests did not object to an increase in tariff commensurate with the aggregate loss of unofficial revenue through the abolition of the special pilot system, since the ships employing special pilots would no longer be called upon to pay the unofficial bonuses which in the District of Montreal varied in 1958 between \$15 and \$25 per trip, depending upon the size and type of ship. Since the loss was borne by the special pilots, most of whom would become Grade A pilots, the Shipping Federation insisted that the revenue derived from Class A additional charges be shared exclusively among the Grade A pilots and that the sharing be handled by the Pilotage Authority. This view was opposed by the pilots on the ground that the sharing of pilotage revenues was a question that concerned themselves only. The Shipping Federation was aware of the existence of the partnership deed whose purpose was to pool pilotage earnings. A compromise solution was

adopted: the pilots amended their pooling arrangement so that the Grade A pilots would be granted a fixed bonus for each vessel exclusively pertaining to their grade which they piloted, the proposed Class A charge was replaced by an increase in trip rates and the Pilotage Authority refrained from imposing any control.

The stand taken by the shipping representatives was apparently a preventive measure aimed at curbing the power of control which the pilots as a group were expected to have if they succeeded in their plan to obtain their incorporation. It was in the course of these negotiations that the shipping representatives learned from the pilots' representatives that this was their intention. The apprehension of the Shipping Federation was such that Captain Matheson, without going through the Advisory Committee, in a letter dated January 7, 1959, addressed to the Director of Marine Regulations, D.O.T., made direct representations asking that the pilots be prevented from forming themselves into a corporation and suggesting that they become salaried employees but without the status of civil servants.

The committee, however, unanimously recommended the abolition of the special pilot system and the establishment of a grade system. This recommendation was favourably received by the Pilotage Authority and immediately implemented (P.C. 1959-459, dated April 14, 1959).

The end of the Advisory Committee as a negotiation forum came shortly thereafter when the pilots also by-passed the committee on the question of tariff revision. Some time earlier the pilots had engaged two consultants, *inter alia*, to study the pilotage tariff and its structure. On the strength of the consultants' reports the pilots had made direct representations to the Pilotage Authority of which the Shipping Federation became aware only when it received from the Pilotage Authority copies of the pilots' brief after the January 29, 1959, committee meeting. The pilots' brief contained two proposals which the shipping representatives considered unacceptable:

- (a) a new tariff structure based on the earning capacity of vessels;
- (b) a 10 per cent overall increase over the pilotage revenues of the previous year.

The fifth meeting of the Advisory Committee which was held February 27, 1959, was entirely devoted to debating this question. The shipping interests vigorously opposed the proposal and no agreement was reached. However, one of the Pilotage Authority's representatives, Captain D. R. Jones, informed the meeting that the Pilotage Authority considered that a tariff revision was justified and that it would be brought into force before the beginning of the navigation season.

Following this meeting, the Shipping Federation requested the Pilotage Authority to delay its final decision but on March 5, 1959, the Pilotage Authority informed the Shipping Federation that the decision was final and,

furthermore, that on that day the river pilots had been so informed at a meeting they had had with the Authority's representative. The Federation riposted with a telegram of protest to the Minister of Transport in which it sought an interview. In a telegram dated March 9, the Minister invited the Shipping Federation to meet his Deputy Minister March 16. The interview took place but the decision remained unchanged. On March 20, the Shipping Federation addressed a formal letter of protest to the Deputy Minister. The tariff was effectively amended a few weeks later (P.C. 1959-459 dated April 14, 1959).

In the months that followed, the tariff was altered a number of times to take care of new situations. However, the requests and representations made and even the meetings that took place between all the interested parties were all outside the framework of the Advisory Committee which, after its fifth meeting on February 27, 1959, had restricted its activities to its assumed function of a quasi-court.

## (2) RECOMMENDATIONS RECEIVED REGARDING THE RE-ORGANIZATION OF THE DISTRICT

In its brief, the Shipping Federation of Canada recommended that the harbour of Montreal be made a separate District for pilotage purposes, i.e., that the present District be divided into two Districts, a harbour District 36 miles long and a river District from Sorel to Quebec 105 miles long. While at the Commission's hearings the National Harbours Board remained neutral on the question, its representatives recommended that, if the foregoing proposal were implemented, the function of Pilotage Authority should be vested in the Port Authority. The pilots who had formerly advocated the partition of the District into three separate, autonomous Districts, the dividing lines being at Trois-Rivières and Marien Street wharf (i.e., an 8.6 mile long harbour District from St. Lambert lock to Marien St. wharf, a 59.5 mile long upper river District from Marien St. wharf to Trois-Rivières, and a 73 mile long lower river District, from Trois-Rivières to Quebec). The Pilots' Federation did not again raise this former proposal before the Commission; instead they advocated the *status quo* in their brief to the Commission and, through the Canadian Merchant Service Guild brief which was filed later, strongly opposed the suggestion that the Harbour Authority should become the Pilotage Authority. The Dominion Marine Association also was not in favour of vesting in the Port Authority the function of Pilotage Authority.

The supporting arguments of the Shipping Federation may be summed up as follows:

- (a) The territorial competency of the harbour pilots should coincide with the legal limits of the harbour.



- (b) For the safety of navigation and the efficiency of port operations, highly trained, skilled harbour pilots should be available.

The first argument fails to take into account the nature of pilotage. It is an all too frequent error to establish the limits of a Pilotage District in relation to boundaries that exist for other purposes and do not correspond to the actual needs of pilotage. Except for the isolated case of Contrecoeur, there is no need at present for berthing and unberthing services in the 21.5 nautical mile channel east of the present harbour pilot limit (i.e., the former downstream harbour limit at the downstream end of Ste. Thérèse Island) as far as the new downstream limit of the harbour. The fact that this sector was placed under the jurisdiction of the Harbour Authority does not in itself create a need for harbour pilotage. The argument that considerable developments are expected in that region has little value until they have actually materialized and this is still not the case. When this occurs, it will be time to re-assess the situation and reorganize the pilotage service to meet the new needs.

The second argument is at first sight very much the same one the pilots had advanced a few years earlier when they recommended the creation of a separate group of pilots to handle all ship movements within the harbour of Montreal. They had argued that the increasing difficulties of navigating within the harbour due to ever growing numbers of larger vessels warranted the creation of a group of local specialists. To counteract the expected objection from the shipping interests on the basis of increased cost, the pilots had stated that substantial savings would result from the fact that rested harbour pilots whose functions would be substantially limited to berthing and unberthing would generally be able to dispense with tugs.

However, the Shipping Federation's proposal is substantially different from the one the pilots had made in that the harbour pilots would, in effect, become river pilots because berthing and unberthing would become merely an accessory duty at the end or beginning of a river trip throughout a 36-mile District. The harbour trip from St. Lambert lock to Lanoraie takes about four hours under normal conditions, i.e., two to three hours longer than a move from St. Lambert lock to Marien Street wharf. If a group of highly trained specialists, trained specifically to take charge of berthing and unberthing, existed, (which need has not yet been established) the proposal would be a retrograde step since this would mean the disappearance of the present group of harbour pilots whose function is limited to movages.

The argument that river pilots are too fatigued to berth a ship after a river trip applies only in a limited number of cases, since it does not apply to ships in transit or to downbound trips. Even for upbound trips, it has not much greater relevance now that a changeover of pilots is compulsory at Trois-Rivières.

It was suggested that when the harbour is congested in April and November the existence of two groups of pilots with well-defined, distinct

jurisdiction detracts from the efficiency of harbour operations in that otherwise avoidable delays occur when last minute changes in the destination of vessels make it necessary to assign river pilots instead of harbour pilots. This situation would occur whenever it is necessary to send vessels to Lanoraie because the Longue-Pointe anchorage is fully occupied.

However, delays of this nature should not occur. It is, first, a problem of proper liaison between the Harbour Authority or Marine Traffic Control and the Pilotage Authority and, for the latter, merely a question of despatching. When the Harbour Master or Marine Traffic Controller is planning port operations he should be aware of the situation at the Longue-Pointe anchorage and should know in advance when it will become necessary to use Lanoraie which is beyond the harbour pilots' jurisdiction. If the Harbour Authority and the Marine Traffic Controller keep the Pilotage Authority informed, there should be no problem. However, if this situation is likely to occur, it is the responsibility of the Pilotage Authority to arrange for the constant availability of a number of river pilots to meet such eventualities. Pilotage is a service; hence, it should be planned to meet demands created by local circumstances over which shipping has no control. Furthermore, no statistics on the incidence of such cases were given, but it would appear they are rare.

The proposal, which means the discontinuation of the changeover of pilots at Trois-Rivières, raises the advisability of extending the length of river assignments in the lower part of the District by adding 32 more miles of difficult channel navigation up to the proposed changeover point at Lanoraie.

At the request of the Shipping Federation, the then Regional Superintendent of Pilots, Captain W. A. W. Catinus, prepared a table indicating the time taken by 12 ships chosen at random to cover the distance between Quebec and Sorel. All these vessels berthed at Sorel but the berthing and unberthing time would be approximately the time they would have taken to cover the distance between Sorel and Lanoraie. Therefore, the times quoted appear accurate enough (Ex. 962).

Name	Quebec-Sorel	Sorel-Quebec
<i>World Cavalier</i> .....	7:55	6:15
<i>Runswick</i> .....	7:40	7:30
<i>Fixos</i> .....	9:00	6:55
<i>Metohija</i> .....	7:45	6:39
<i>Regina</i> .....	7:40	6:30
<i>Helga Oldendorff</i> .....	7:25	7:15
<i>Praunheim</i> .....	8:55	8:20
<i>Hajduk</i> .....	13:00	11:00
<i>Lesozavodsk</i> .....	7:50	7:00
<i>Justinian</i> .....	8:15	6:45
<i>Dorset</i> .....	7:10	6:50
<i>Propontis</i> .....	10:40	9:15

However, this table can not convey a complete picture in that it does not take into account passenger vessels, which are much faster, and inland and coastal vessels, which are generally slower.

The Shipping Federation stated that the Lanoraie anchorage would be an ideal area to effect the changeover of pilots, the channel there being wide and straight for three to four miles and free of any obstructions with a uniform 1.7-knot current. It would be preferable to Longue-Pointe because the channel is twice as wide and there is less traffic. However, these views are not shared by the pilots. Pilot Orance Hamelin stated that the Lanoraie area is precarious because it is exposed to particularly violent winds. In order to counteract them ships would have to maintain high manœuvring speed to remain in the channel, thus making it extremely difficult for the pilot vessel to come alongside and also creating a hazard in the confines of an anchorage.

As to the advisability of a Port Authority being entrusted with the function of Pilotage Authority, the Commission has already expressed its views in its General Recommendation 18 (Part I, pp. 510 and ff.). Under the present system, the Harbour Authority in Montreal does not meet the requirements.

However, when studying the reasons which prompted this recommendation by the Montreal harbour officials, it is realized that it arose because of their frustration (vide pp. 661-2).

As stated earlier, it is considered that harbour legislation should make it an offence for anyone who fails to obey the Harbour Traffic Control Regulations or the lawful orders given by the harbour controllers, whether the offender be a ship's officer or a pilot, and should empower the Harbour Authority to prosecute the offender directly. Since the Harbour Authority is responsible for the safety of navigation within the harbour, it should have the power and the means to investigate on its own any casualty, accident or incident affecting the safety of navigation and the efficiency of port operations, and to take the indicated remedial action, whether a pilot is involved or not. Improved liaison between the Harbour Authority, the Pilotage Authority and Marine Traffic Control should be achieved. A first step toward greater cooperation would be for the Pilotage Authority to be composed of an *ad hoc* Board on which the Harbour Authority would have a representative (Part I, p. 511).

#### 4. PILOTS

##### (1) NUMBER OF PILOTS

The By-law leaves the determination of the required number of pilots to the administrative decision of the Pilotage Authority after consultation with the Pilots' Committee concerned (as to the legality of this provision, vide Part I, pp. 255 and ff.). There is no criterion established, either legisla-



tive or administrative. Each time vacancies occur or the pilots request an increase in their number, the question is studied afresh, a process which causes much contention and frustration as well as a serious loss of time for all concerned.

Formerly, the District By-law provided a legislative criterion. In 1927, it was an average of 60 trips (full transits) per pilot (50 pilots for each 3,000 trips per annum). In 1949, this number was raised to 70 per annum calculated according to the average of trips for the three previous years, thereby making allowance for non-recurrent fluctuations. The criterion soon became a legislative dead letter, so much so that, when it became definitely obsolete on account of the administrative division of the District at Trois-Rivières in 1959, it was not felt necessary either to delete or to modify the provision to meet the new situation. It was deleted during the 1961 consolidation of the By-law.

For a more complete study of the question and the Commission's comments and recommendations, reference is made to pp. 225-231. For statistics on the evolution of pilots' strength, reference is made to the tables pp. 620 and ff. and pp. 760 and ff.

## (2) RECRUITING AND TRAINING OF PILOTS

The method of recruiting candidates for pilotage and the required training to qualify them as pilots depend on the nature of the pilotage service to be rendered and the extent of the required qualifications already possessed by the candidates. Therefore, the licensing requirements for river pilots and those for harbour pilots differ substantially.

### (a) *Recruiting and Training of River Pilots*

On account of the extensive local knowledge and experience required to become expert in the navigation of the ship channel between Quebec and Montreal, including both harbours, and to berth and unberth ships in these and other harbours in the District, and because of the absence of a sizeable pool of qualified mariners experienced in these waters from whom to select potential pilots, it has been necessary to adopt an extensive apprenticeship system in the Montreal District (Part I, p. 252).

Recruiting methods, apprenticeship requirements, surveillance and selection arrangements for candidates and pilots are, except for a few details, the same as in the Quebec District (for details see pp. 231 and ff.). In fact, the Quebec system was inspired by Montreal's experience. The first meaningful reforms were adopted in 1956 (P.C. 1956-1499) which introduced the requirement of theoretical study at the Rimouski Marine School, but it was not until the 1961 revision of the By-law that the complete revision of the system devised by the pilots and agreed to by the Advisory Committee in 1959 was given effect.

As in Quebec, newspaper advertisements are used to invite candidates. The selection of candidates and pilots, and surveillance of the apprentices' training are responsibilities of the Board of Examiners composed of representatives of the Pilotage Authority and the pilots. As a rule, the apprentices are recruited from the ranks of pre-selected candidates who have attended a two-year course at a marine school approved by the Authority, have obtained the diploma for that course and have served as a deck officer for the required period (formerly 12 months, raised to 36 months in 1967). The number of apprentices is determined by the Board of Examiners to meet foreseeable requirements for pilots. Apprentice licences are issued by order of seniority on the qualified candidates list kept by the Board of Examiners. The minimum duration of apprenticeship is three years. In addition to the required number of trips to be performed throughout the District, the apprentice must, during each of the first three years of his apprenticeship, undergo a course of training aboard a vessel selected by the Board of Examiners and a course of instruction determined by the Board of Examiners given at a marine school, and write an examination. Repeated failure to pass the examination or comply with the other apprenticeship requirements will result in the cancellation of the apprentice's licence. An apprentice who has complied with these requirements and who possesses a Certificate of Competency as First Mate of a Home-trade Steamship (unlimited as to tonnage), or of a higher grade, is eligible to be examined for a pilot's licence when a vacancy is created and it is his turn on the eligibility list. An apprentice holding a temporary pilot's licence takes precedence. An eligible candidate who has successfully passed the pilot's examination before the Board of Examiners and meets the physical and mental fitness requirements is issued a probationary licence.

The main points of difference with the Quebec system are the following:

- (i) It is possible to recruit apprentices directly from the ranks of qualified, experienced mariners who have not reached the age limit. This provision was added by an amendment to the By-law in 1967 which, at the same time, *inter alia*, raised the age limit from 30 to 35. The requirements for Grade Eleven basic education and a diploma for passing the two-year course in navigation at an approved marine school are waived, but the competency requirements are higher: to become apprentices such mariners must hold a Canadian certificate not lower than Master of an Inland Waters Steamship, or as First Officer of a Home-trade Steamship, or as Second Officer Foreign-going, and must have served at least 36 months as a deck officer in charge of a watch in such vessel. In contrast, no Certificate of Competency is required of selected candidates to enable them to become eligible for apprenticeship. Such a certificate need not be obtained before the expiration of three months following the three years of apprenticeship. The

required minimum certificate is First Mate of a Home-trade Steamship (unlimited as to tonnage). The 36 months' deck service which must be completed prior to becoming an apprentice may be served in any ship. No doubt this provision was added to forestall a shortage of qualified selected candidates to meet the expected demand for apprentices.

- (ii) In Quebec, a selected candidate may not receive an apprentice licence until he has obtained his marine qualifications and the date of his Certificate of Competency is the date he becomes an apprentice, which, as seen earlier, is not the case in Montreal. The Quebec requirement appears to be more logical. Because a pilot is a specialist in navigation, it seems normal that he should be a fully qualified mariner before beginning training for his *expertise*.
- (iii) The Montreal By-law provides that a third failure in the final examination automatically entails forfeiture of the apprentice licence, a feature that has been asked for by the Quebec pilots but so far has not been incorporated in the Quebec By-law.
- (iv) The course of instruction to be followed each apprenticeship year is a By-law requirement and, therefore, is a compulsory feature. Failure to comply with this requirement may result in cancellation of the apprentice licence. (This is an essential feature which should be added to the Quebec District By-law, even if it entails the Pilotage Authority assuming responsibility for these courses through the Board of Examiners.)

The course of instruction for apprentices which the Board of Examiners has drawn up is as follows:

- (i) the first year, technical knowledge of the ship channel;
- (ii) the second year, landmarks along the ship channel and the regulations of the various harbours in the District;
- (iii) the third year, pilotage regulations and other related regulations, such as those concerning the control of water pollution and the St. Lawrence River Navigation Safety Regulations, the procedure for reporting shipping casualties, and special studies relating to the art of ship handling and special features of the ship channel, such as prohibited anchorage areas.

This formal course of instruction is given in the Marine Institute, now located in Quebec, by the regular instructional staff and also by Montreal pilots.

The apprentices receive no official remuneration, a situation which the Montreal pilots have also recommended should be corrected.

As in the Quebec District, the pilots receive unofficial remuneration from certain vessels pursuant to arrangements made by the Shipping Federa-



tion with its members: \$12 per full trip for a first-year apprentice and \$15 thereafter. The situation is the same as in the Quebec District (pp. 237-238) with the difference that the apprentices are not given the choice of ships but are despatched on the basis of tour de rôle and ship arrivals (except passenger vessels). Hence, an apprentice is precluded from selecting ships that pay unofficial remuneration.

On January 5, 1966, the Montreal river pilots submitted a brief to the Pilotage Authority requesting that the apprentices be paid an official remuneration and stating that it was in the interest of the service to remunerate them. They denounced the prevailing system which left the amount of the apprentices' remuneration to chance voluntary contributions from only some of the vessels employing pilots and which, in any event, left the level of remuneration far too low. In their brief, they recommended that apprentices be paid by the Pilotage Authority an annual salary of not less than \$3,000, the cost to be covered by a 5 per cent surcharge on pilotage dues.

For the Commission's comments on the pilots' proposal, reference is made to pp. 260-261.

At the time of the Commission's hearings, the Regional Superintendent, Captain W. A. W. Catinus, found that the new apprenticeship system was working efficiently, that the Board of Examiners was discharging its responsibilities adequately and that the system ensured sufficient numbers of qualified, competent pilots. His only criticism was that twelve months' sea experience was not enough, especially since high standards of qualification were being sought. As seen earlier, this drawback has since been corrected, the sea experience required having been increased to 36 months in 1967.

Captain J. J. Gendron expressed the opinion that to obtain competent, skilled pilots training should begin at an early age because pilotage as a vocation "is not suddenly acquired at 45 years of age". Therefore, he was against recruiting pilots from those who had already made a career as Masters or Ship's Officers.

#### COMMENTS

For the Commission's comments and recommendations on the present system of recruiting and training pilots, reference is made to pp. 259 and ff.

The *de facto* division of the District at Trois-Rivières and the ensuing administrative limitation of the river pilots' competency to either the lower or upper sector of the District is not reflected in the training of apprentices. It is considered that failure to take this factual situation into account is an unnecessary imposition upon the apprentices and is not conducive to the acquisition of a high standard of *expertise*. Only legislative difficulties prevented the legal division of the District but a *de facto* division was effected by dividing the pilots into two groups, each being assigned to one of the two sectors exclusively. Although the Pilotage Authority has continued to issue

licences unlimited as to territory, it would fail in its responsibilities if it were to allow a pilot from one sector to be transferred to the other, either temporarily or permanently, without first requiring him to undergo fresh training in the other sector and be re-examined on local knowledge. To remain expert it is not sufficient for a pilot simply to pass the required examination, he must also maintain his local knowledge and skill in navigating the ship channel of his sector by constant experience. This is why sec. 336 C.S.A. provides for the automatic forfeiture of a pilot's licence after two years of non-usage. This being so, it is considered that the apprentice pilots' training in the ship channel should be limited to one of the two sectors as if each were in a separate District.

### *Temporary Licences*

According to the governing legislation, there should be two types of temporary licence available for the Montreal river pilots: temporary licences under sec. 338 C.S.A. and temporary licences to meet an emergency situation.

A Montreal river pilot who holds a permanent licence, provided he is physically and mentally fit, is entitled under sec. 338 to be issued with a one-year temporary licence which is renewable until he reaches the age of 70, since no regulations were made under subsec. 329(i) C.S.A. to provide for compulsory retirement at the age of 65. Section 3 of the "Regulations Governing Montreal Pilots Pension Fund" which states that 65 is the normal pensionable age is merely a provision concerning the management of the Pension Fund, thus making it possible to grant a pension in the event of voluntary retirement beginning at age 65 (vide Part I, p. 266).

In fact, this is the practice followed in Montreal. Pilots are permitted to retire on a voluntary basis at 65 but, if they elect to continue piloting, temporary licences are issued. For instance, according to the 1963 annual report one pilot then aged 68 was still active with such a temporary licence.

Section 34 provides for the issuance of temporary licences to qualified apprentices to meet an emergency. This legislative provision provides the necessary flexibility in a system of controlled pilotage where the number of permanent licences is limited to those required to meet the expected demand for service. For further comments, vide Part I, p. 270.

The By-law does not provide for the issuance of temporary (probationary) licences and, contrary to the practice still followed in the Quebec District, the first licence granted is permanent.

### *COMMENT*

The grade system would be further improved if the probationary licence requirement were made an integral part of it. The first licence to be issued should be probationary and last for a sufficient period to enable the Pilotage Authority to appraise each new pilot's skill and practical knowledge.

### *Grading of Pilots*

The grading or classification of pilots as to legal competency (Part I, p. 263) to navigate vessels in relation to their size and type was a necessary new feature in pilotage that was introduced when the special pilot system was abolished. Former pilotage legislation contained a special statutory provision for the District of Montreal providing for grading but on a much smaller scale. By an amendment to the Pilotage Act in 1879 the Montreal Pilotage Authority was authorized to issue second-class licences and fix lower rates for the price of their services. This provision was abrogated when the 1934 C.S.A. was enacted.

The grade system has been declared illegal by the courts under the present statutory legislation (vide p. 256), but this irregularity has been temporarily covered for the Montreal District by sec. 7 of the 1969 amendment to the Canada Shipping Act (p. 571).

The special pilot system that previously existed in the District of Montreal was a constant source of contention with the shipping interests and a source of friction among the pilots because it interfered with a system of controlled pilotage. Ever since the Montreal pilots established and operated their own unofficial tour de rôle system for those who were not special pilots they have encountered the same difficulties as in the Quebec District. In 1959, the shipping interests and the pilots finally came to an agreement with the Pilotage Authority about the need to abolish the special pilot system. The grading of pilots was adopted to replace the control formerly exercised by the shipowners who through the appointment of special pilots could ensure that only thoroughly experienced pilots were allowed to take charge of passenger vessels and larger ships. The changes were effected immediately after the agreement was reached by an amendment to the By-law dated April 14, 1959 (vide p. 613). It preceded by one year the implementation of a similar system in Quebec.

The system is substantially the same as the one adopted in the Quebec District in 1960. The few differences that exist were rendered necessary by the greater difficulties of navigation due to the physical features and limitations of the ship channel in the Montreal District. The period in Grade C was made three years instead of two, and the Grade B competency was first limited to 7,000 NRT but raised to 8,000 in 1967 instead of 10,000 as in Quebec.

Under the new system, the pilots were graded in three main categories:

- (i) a first minimum three-year period called Grade C, in turn divided into three one-year stages referred to as Grade C1, C2 and C3, the limit of the pilot's competency as to size of vessel being respectively 1,500 NRT, 2,500 NRT and 4,000 NRT;



- (ii) the basic grading for a full-fledged pilot, Grade B, with a competency tonnage limit of 7,000 NRT, to which Grade C pilots could be promoted after completing the Grade C period provided they passed an examination as to competency;
- (iii) Grade A with competency unlimited as to size and type of ship, granted at the discretion of the Pilotage Authority to Grade B pilots; Grade A pilots automatically reverted to Grade B at 65 years of age; they could also be degraded if found incompetent or unsuitable for Grade A.

The By-law also provided as a transitional measure that all pilots then holding a licence would automatically be graded B. The 7,000 NRT limit had been arrived at after consultation with the shipping interests and the pilots were to ensure that only thoroughly experienced pilots were assigned to larger vessels. Twenty-six pilots were then graded A.

In 1961, some modifications were made to improve the system:

- (i) Satisfactory service was made a requirement for upgrading and the examination requirement for the granting of Grade B was abolished.
- (ii) At the age of 65 or after, a Grade A pilot could be graded C instead of Grade B, but only at his own request.
- (iii) The competency of Grade C1 and C2 was increased to 2,000 NRT and 3,000 NRT respectively.

The main purpose of the 1961 amendment was to stress the point that upgrading was not to be automatic after the prescribed lapse of time but was subject to satisfactory service. In fact, on a number of occasions, upgrading has been delayed on account of an adverse record. After *M. V. Beechmore* grounded August 5, 1961, in Montreal harbour, the pilot's promotion from Grade C to Grade B was delayed until the expiration of two years after the date of the casualty, as recommended by the Investigating Officer (Ex. 1332). The pilot who was held responsible for the *Inga Bastian* striking Victoria wharf October 11, 1962, was told that he would not be promoted from C2 to C3 until he had successfully completed 25 movages in Victoria basin because it was realized that he needed more experience handling ships in the current there. His promotion was not actually delayed because he met this requirement before he was due for it.

In 1963, on account of the increase in the number of larger vessels, it became difficult to share the workload equitably among the pilots because of the limited number of Grade A pilots. There were two possible solutions: increase the number of Grade A pilots, or raise the tonnage limit of vessels that could be handled to a level that would re-establish the balance.

The Pilots' Committee chose the second solution and recommended to the Pilotage Authority that the tonnage limit for the Grade B pilots be

raised from 7,000 tons to 8,000 tons. The Pilots' Committee was satisfied that all the Grade B pilots were competent to take charge of vessels of somewhat larger size and that, on the other hand, it was preferable not to increase the number of Grade A pilots. In fact, this was the only logical solution but it is doubtful whether 8,000 NRT was high enough. However, the proposed solution was in conformity with the philosophy of the grade system in which Grade B is the grade of the fully qualified pilots who should handle the bulk of pilotage work and the few most difficult or unusual assignments are reserved for a small selected group of particularly skilled Grade A pilots. The solution was also the only one compatible with a pooling system which requires that the majority of participants share on an equal basis.

When the Shipping Federation was consulted, it opposed the idea but, after further study and taking into account the report made by the local Supervisor and the Regional Superintendent on the difficulties met in despatching pilots under the 7,000-ton limit, the Pilotage Authority raised the Grade B tonnage limit to 8,000 NRT by an amendment dated January 10, 1964.

Since the vessels that were within the exclusive competency of Grade A pilots were not affected by a Class A additional charge as in Quebec, the change in the competency of the Grade B pilots did not require a tariff revision.

In 1967, in addition to satisfactory service, a period of eight years of active service was added as a prerequisite to upgrading from Grade B to Grade A, and a pilot's right to be reclassified to a grade lower than B was advanced to the age of 60 and extended to Grade B pilots as well.

In addition to the requirement of satisfactory service, the length of the three stages in Grade C was modified for C1 to six months or 100 assignments whichever came later, and to 12 months and 18 months for Grades C2 and C3, and the maximum tonnage for Grade C3 was raised to 5,000 NRT. For the error in drafting, in the new provision concerning Grade C1, vide f.n.1, p. 571.

For further comments on the grade system, reference is made to p. 257.

#### *(b) Recruiting and Training of Harbour Pilots*

The only difference in the qualifications required of the harbour pilots as compared to the river pilots is that their local knowledge and experience in shiphandling extend over a comparatively small area of confined waters, i.e., the 12.5-nautical mile upper section of Montreal harbour from St. Lambert lock to the downstream end of the Island of Montreal. Hence, as

is to be expected, the required local knowledge can be obtained by qualified, experienced mariners in a much shorter training period.

A formal period of training under the direction of the Pilotage Authority, i.e., an apprenticeship period, is a necessary prerequisite to obtaining a pilotage licence unless the Authority can draw on a sizeable number of qualified mariners who are constantly manoeuvring, berthing and unberthing ships in local waters. Since this is not the case in Montreal harbour, it has been necessary to set up an apprenticeship system. Unfortunately, this factual situation is not reflected in the pilotage regulations, as it should be.

In 1957, when it was decided to create a group of harbour pilots (pp. 625 and ff.) whose sole responsibility would be movages in Montreal harbour, the Authority was faced with the problem of recruiting candidates for harbour pilotage from the ranks of qualified mariners and ensuring that they acquired the necessary local training before being licensed. The Montreal river pilots had strongly opposed the proposal of the Shipping Federation that the new harbour pilots be recruited from their number but offered to give intensive training to mariners recruited for this purpose by the Pilotage Authority. The problem of financing the training of the first group of candidates was settled when the Shipping Federation offered to assume the cost.

Following these agreements in early May 1957, the Pilotage Authority formed a selection committee composed of representatives of all the parties concerned, including the Harbour Master. The presence of representatives of the shipping interests was of a temporary nature.

One hundred and thirty eight candidates answered the advertisement which required a Master's certificate, either foreign-going or for inland waters, with, in addition, actual experience in command. Twelve of these were chosen after the Selection Committee had perused their credentials and conducted a professional examination.

Since no selected candidate had any pilotage experience in the harbour, a training programme had to be arranged. The Shipping Federation undertook to organize this programme in cooperation with the river pilots' association, the United Montreal Pilots; Captain Matheson of the Shipping Federation was put in charge.

The programme was divided into two periods. The first consisted of one month of formal instruction given by two river pilots, A. Tremblay and R. Grenier, who were assigned by the United Montreal Pilots. Their lectures concerned the physical features of the harbour, its various berths, the ship channel, the regulations and other matters with which a harbour pilot



needed to be conversant. This was followed by a one-week, detailed survey and study of all the harbour waters from a tug under the direction of the two pilot instructors. This theoretical phase was followed by an examination to assess the candidates' progress. All the candidates except one passed the examination and were allowed to proceed with the second stage of training. The pilot who failed was required to undergo a further month of theoretical training.

The second stage was an indefinite period of practical training in manoeuvring, berthing and unberthing in the harbour with, and under the direction of, the river pilots who had been regularly assigned to ships and remained responsible for the movages, beginning with ships of small tonnage and gradually increasing to the larger ones. During this last part of their training when the trainees were considered capable of piloting on their own, they were granted temporary cancellable licences restricted as to competency. Three such licences were issued on July 29, four on August 9, three on August 23, one on September 23 and one on October 26.

The duration of this practical training was not uniform for all candidates. For instance, the three candidates who were former pilots of the Montreal-Kingston-Ottawa District were granted their harbour pilot's permanent licence on August 26, 1957, while the nine other candidates had to spend longer before obtaining theirs: four were licensed in September 1957, two in October, two in November and the last one in December. Before obtaining their licence, all the candidates were required to undergo another formal examination and a compulsory improvement course was given during the 1958 winter season.

This accelerated training was considered a complete success since in a relatively short period of time it had been possible to prepare the required number of harbour pilots, including extensive practical training, without any serious mishaps on the debit side. Pilot Chas. B. Lavoie, one of the first harbour pilots to be licensed, stated that it was not before the spring of 1959 that he felt at ease piloting in the harbour. He warned that the brief training they had had would no longer be adequate because of increasing numbers of larger ships and the considerable changes in the traffic situation since the opening of the Seaway.

This first training programme was financed by the Shipping Federation by way of voluntary contributions from its members amounting to a 25 per cent surcharge on dues for movages the candidates performed in the harbour. This additional charge was collected by the Pilotage Authority. The actual expenditures amounted to \$6,696.12, a relatively low figure which was made possible by the Shipping Federation and the Montreal river pilots providing the necessary administration and training free of charge. The

only remuneration paid to instructors was for the winter improvement course. These expenditures were as follows:

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Remuneration during training paid to the 12 candidates forming the initial group.....	\$ 4,650.00
Remuneration paid to the candidate recruited in 1958.....	820.00
Remuneration paid to the instructors for the winter improvement course of 1958.....	780.00
Stationery.....	228.12
Insurance.....	218.00
Total.....	\$ 6,696.12

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The item *insurance* represents the premium paid for liability insurance coverage to all concerned against casualties or accidents attributable to the fault of trainees.

The 25 per cent voluntary contribution yielded \$8,579.71, leaving a net surplus of \$1,883.59 which was remitted by the Pilotage Authority to the Shipping Federation of Canada when the training programme was completed.

Since that time the training programme has remained basically the same but the pilots' licences are now granted before the practical training stage and neither the Shipping Federation nor the river pilots bear any responsibility for the selection and recruiting of the harbour pilots. These duties are performed by the Pilotage Authority through its delegate, the Examination Board, composed as stipulated in the regulations, and by the harbour pilots. Sec. 48 of the District By-law provides for the Examination Board to be composed of the Regional Superintendent, or someone designated in his stead by the Pilotage Authority, as Chairman, three members of the Harbour Pilots' Committee, and an officer of the Department of Transport.

The pilots have always been opposed to direct shipping representation on the Board of Examiners. It was only on account of its administrative and financial contribution that the Shipping Federation had a direct representative on the provisory organization and selection board, and later up to 1961 had *de facto* representation on the Board of Examiners whose composition was in part left to be determined administratively by the Pilotage Authority (sec. 58 of the By-law added by P.C. 1957-987). It is in the exercise of this discretionary power that the Pilotage Authority asked the Shipping Federation to send one representative to form part of the Board of Examiners. However, the possibility of such an indirect representation was eliminated when the By-law was revised in 1961 (sec. 48).

In 1959, the number of harbour pilots was raised to 16 at the request of the Harbour Pilots' Corporation to handle the greater workload which

resulted from the increase in traffic following the opening of the Seaway. To lessen the chances of opposition to their proposal, the harbour pilots did not ask for an increase in moveage rates and undertook to finance the training of the candidates out of their common fund. The trainees were paid \$15 per day for the duration of the theoretical stage. During the practical stage they were no longer a financial burden since the licensing procedure had been altered so that a probationary licence was granted immediately after the theoretical stage.

The number of harbour pilots was raised again in 1965 to 18 at the request of the pilots and with the concurrence of the Shipping Federation. At the same time it was agreed to increase moveage rates by 10 per cent, of which 4.5 per cent was to provide additional revenues for the harbour pilots and 5.5 to finance the training of the two candidates.

When an advertisement for new candidates was published in 1965, the Board of Examiners had made a list of applicants whose credentials were in order and the two trainees were selected from them. In 1966, the pilots again asked for a further increase of two to be selected from the names remaining on that list. This further request was granted, despite the opposition of the Shipping Federation. This brought their number to 20 which remained unchanged until the beginning of 1969 when one pilot who retired voluntarily was not replaced.

The governing By-law provisions are very incomplete and do not reflect as fully as they should the practice to be followed:

- (i) Sec. 47 establishes the pre-requisites to licensing, i.e., Canadian citizenship and residence, a Certificate of Competency not lower than Master of an inland waters steamship (unlimited as to tonnage); experience as a Master or experience in piloting, the extent of which is left to the discretion of the Pilotage Authority; physical, mental and moral fitness and success in an examination before the Board of Examiners.
- (ii) Sec. 48 establishes the composition of the Board of Examiners.
- (iii) Sec. 49 stipulates certain topics that the theoretical examination for licensing shall include: local knowledge of the harbour, regulations affecting pilotage, "manoeuvring of ships with and without the aid of tugs" and other subjects and matters pertaining to the duties of a harbour pilot at the Board's discretion. The candidate must also undergo a medical examination as to his physical and mental fitness.
- (iv) Sec. 50 provides that the first licence is to be a one-year probationary licence followed by a permanent licence if the licensee is found suitable for the pilotage service. During the probationary period



the pilot is to receive remuneration as fixed by the Pilotage Authority after consultation with the Harbour Pilots' Committee.

However, the actual practice and procedure are as follows (Ex. 1539(h)):

- (i) *Recruiting.* Candidates for the service are sought through public advertisement in newspapers at regular intervals, i.e., every two years. This period corresponds to the length of time the eligibility list is valid. At the expiration of this period, the existing list becomes invalid and the process is repeated.
- (ii) *Selection.* Once applications are received, they are screened for basic requirements, i.e., age, citizenship, technical qualifications (Certificate of Competency), etc. The candidates who are found acceptable at this stage are called to meet the Board of Examiners and are given written and oral examinations. Based on the results, a list of eligible candidates is prepared in order of eligibility. This list is submitted to the Authority for approval. The selected candidates are called from that list when new apprentices are required.
- (iii) *Training.* An apprentice is required to undergo a four-month apprenticeship during which he must familiarize himself with every section of the harbour. For this purpose, he is required to perform a minimum of 12 movages per week in the company of a licensed pilot to cover all wharves and anchorage areas.
- (iv) *Examination for licence.* At the conclusion of the four-month apprenticeship, the apprentice is given an oral examination on local knowledge, primarily on the channel, currents, aids to navigation, berths, handling ships with or without tugs and local regulations.
- (v) *Probationary licensing.* If the Board is satisfied that an apprentice has demonstrated the necessary knowledge and experience to be a harbour pilot, the Pilotage Authority issues him a probationary licence valid for one year. Although the By-law does not prescribe any limitation as to tonnage, a probationary pilot is limited to vessels not exceeding 3,000 NRT for the first four months and 5,000 NRT for the remaining eight months.
- (vi) *Remuneration.* During the apprenticeship period, apprentices are paid out of the pool a remuneration of \$20 per day. A probationary pilot's remuneration is two-thirds of a full share of a pilot holding a permanent licence.
- (vii) *Permanent licensing.* At the expiration of the probationary period and upon proof of satisfactory service, a permanent licence is

issued. The proof of satisfactory service takes the form of a report made by the District Supervisor compiled after consulting the Pilots' Committee as to the probationary pilot's suitability.

Although the probationary licence actually corresponds to the Grade C of river pilots, the regulations do not provide for the selection of a small number of pilots corresponding to Grade A.

Since the By-law contains no provision made under subsec. 329(i) C.S.A., the harbour pilot is entitled to a renewable temporary licence under sec. 338 when his permanent licence expires, provided he is fit for duty.

The By-law is deficient in that it does not provide for issuing temporary licences to qualified candidates to meet emergency situations.

#### COMMENTS

The current training procedure is quite at variance with the original extensive theoretical and practical training that experience had proved necessary. At a time when the pilots' duties have become more exacting and when an ever increasing standard of qualifications ought to be required, this lowering of training requirements is regarded with apprehension by this Commission which can not avoid suspecting that the problem of financing the candidates' training may have been the determining factor and that the present system is a compromise between the public interest and the amount the pilots are willing to pay.

It is considered that the validity and adequacy of the training programme should be carefully reassessed, and any necessary corrections made if it is found that it is unlikely to produce candidates for licensing who possess the degree of *expertise* required for safe, efficient pilotage operations in the harbour.

As is required by law (Part I, p. 251) and because the public interest is involved, the prerequisites to become first an apprentice and then a pilot, as well as the detailed procedure for recruiting and training apprentices and for selecting pilots, should be fully established in the regulations. The regulations should also fix the amount of the apprentices' remuneration and lay down that it forms part of District operating expenses which are paid by the Pilotage Authority, normally out of aggregate pilotage earnings.

Despite the small number of pilots, the grade system should be adopted and the regulations provide for a temporary Grade A, i.e., for the selection of a few pilots from those best qualified to handle the most difficult and unusual assignments. Grade C should correspond to the period of the probationary licence and should be based on a combination of time, number and types of assignments and satisfactory service.

### (3) PILOTS' ORGANIZATIONS

Apart from the 1850 public Pilot Corporation "The Corporation of the Pilots for and above the Harbour of Quebec" which was never activated (pp. 588 and ff.), at the time of the Commission's hearings the Montreal river pilots were grouped in two separate organizations of their own:

*The United Montreal Pilots* (Part I, p. 84) was a partnership agreement principally for the purpose of pooling and sharing the pilots' earnings but which also served to promote the professional interests of the group. This voluntary partnership comprised all the Montreal river pilots. It was allowed to lapse when the terminal date set out in the deed, December 31, 1968, was allowed to pass without the deed being extended by a further agreement.

*The Corporation of Mid-St. Lawrence Pilots* is a professional organization incorporated under Part II of the Federal Companies Act (Part I, p. 88), which had taken over the functions of the partnership and since January 1, 1969, has been the only organization now grouping the Montreal river pilots. It is not yet fully representative because a few river pilots have refused to join.

The administrative division of the Montreal river pilots for despatching purposes did not result in a division of their organizations. The river pilots of both sectors continued to belong to the same organizations and their *de facto* division is very slightly reflected in the internal organization of the Corporation.

The harbour pilots have their own organization. Soon after the creation of the harbour pilots' group, the "Corporation of the Montreal Harbour Pilots" was created by letters patent issued on January 2, 1958, under Part II of the Federal Companies Act (Part I, p. 88). All the harbour pilots are members.

As seen earlier, both groups of pilots are also represented by their own Pilots' Committees, which are distinct entities deriving their existence from the Pilotage District By-law. However, in practice, their functions are exercised by the Board of Directors of the respective Corporations.

The Corporation of Mid-St. Lawrence Pilots and the Montreal Harbour Pilots' Corporation are among the founding group members of the St. Lawrence Pilots' Federation. No doubt because of the dissident river pilots, on January 11, 1960, the United Montreal Pilots also sought admission as a group member, which request was granted (Ex. 1461(f)). This membership automatically lapsed when the United Montreal Pilots ceased to exist, with the result that the two remaining dissident pilots are *ipso facto* no longer active members of the Federation (Ex. 1539(i)).

The fact that both the Association and the Corporation of the Montreal river pilots were group members of the Federation and that, ex-



cept for the dissidents, the two organizations were composed of the same members, did not lead to double representation in the Federation. A practical view was adopted and for the purposes of representation and of assessment the two organizations were considered as one.

The delegate members (one for each 10 active members) are selected by the Corporation's Board of Directors. According to the practice followed, the members of the Board of Directors of the Corporation are *ex officio* delegate members. In addition, defeated candidates also become delegate members unless the general meeting decides otherwise.

(a) *The United Montreal Pilots*

Despite their unremitting efforts, the pilots of the District of Montreal never succeeded in obtaining an Act of incorporation such as was granted to the Quebec pilots in 1860. However, they achieved the same purpose unofficially by voluntarily renouncing free enterprise, arranging their own despatching and pooling their pilotage revenues, all as early as 1873 (vide pp. 592 and ff.). It would appear, however, that the first formal deed of partnership is the one signed December 27, 1918, where the name "United Montreal Pilots" was adopted. This step seems to have been taken in view of the Robb Commission's criticism of the Quebec and Montreal pilots' practice of pooling their pilotage revenues.

The 1918 deed, which was valid for 25 years, was extended for a further 25 years by an agreement signed by all pilots on January 25, 1943, after which it was allowed to lapse on December 27, 1968, (Exs. 771 and 771A). This deed was very similar in nature and content to the deed of *L'Association des Pilotes licenciés pour le Havre de Québec et en aval*, to whose study reference is made (vide pp. 266 & ff.). (Re the aims of the partnership, vide extract of the deed, Part I, p. 86.)

As in Quebec, the Corporation was created with the intention of superseding the partnership. For the same reason as in Quebec, i.e., because some pilots (8 out of 123) refused to join, the partnership was not dissolved, but through the same process its activities were limited to holding the annual general meeting which was merely a *pro forma* proceeding. However, the partnership was later dissolved automatically when its term expired December 27, 1968, without being extended. This created an awkward legal situation for the two remaining dissidents (p. 689) (Corporation's finance).

The procedure was the same as in Quebec. By a majority decision, the partnership deed was purported to be amended to provide for its identification with the Corporation By-laws, the decisions and the acts of which were supposed to be deemed *ipso facto* those of the partnership except when otherwise provided.

(b) *The Mid-St. Lawrence Pilots' Corporation*

Since 1952-53, on account of the increasing number of problems concerning the exercise of their profession, their remuneration and their working conditions, the pilots had been thinking of modifying substantially their partnership arrangement and possibly transforming it into an incorporated professional organization. During negotiation meetings with the representatives of shipping and the Pilotage Authority the pilots came to realize the necessity of having fully mandated representatives to speak and decide in the name of the group on questions of a professional nature.

On January 21, 1958, after hearing reports on the preliminary studies made on these questions by the Board of Directors and by the experts who had been consulted, the pilots at the Association's annual general meeting voted for incorporation and for the creation of a Federation (Ex. 778). At the general meeting of December 29, 1958, an *ad hoc* 14-member committee was formed, comprising the five Directors of the Association and nine pilots, six from the upper sector group and three from the lower sector, with the mandate of preparing a draft of the proposed charter and the necessary By-laws and meeting with the representatives of the other St. Lawrence pilots with a view to achieving a federation.

The Shipping Federation viewed with much apprehension the possible creation of a Pilots' Corporation and even more so a Federation grouping all the St. Lawrence pilots, and did all it could to prevent either becoming a reality (pp. 663 and ff.). This opposition did not improve the already strained relations between the two groups.

At the instigation of the Shipping Federation, the Pilotage Authority tried to dissuade the pilots from proceeding with their plan. Following a decision taken at the highest level of the Department, one of the senior officers of the Department went to Montreal to meet the legal adviser of the pilots. His mission was to express to the pilots' representatives and to their legal adviser the Minister's disapproval of their attempt to seek incorporation.

The charter of the new Corporation—the Mid-St. Lawrence Pilots' Corporation—was issued by the Secretary of State of Canada on February 2, 1959.

The Corporation's charter, By-laws and structure are in substance the same as for the Lower St. Lawrence Pilots' Corporation which were studied on pp. 275 and ff.

The By-laws have been amended 14 times, the latest amendment being By-law No. 16 amending By-law No. 2 which was deposited in the Department of Consumer and Corporate Affairs on Nov. 19, 1969. By-law 14 is an amendment which provides for proxy voting at elections of Corporation

officers for pilots who can not attend because they are engaged in piloting vessels. This was rendered necessary by the continuing increase in winter navigation when it became obvious that a full attendance of pilots at the annual meeting would amount to a stoppage of work. However, this amendment, although deposited in the Department of Consumer and Corporate Affairs, became effective only in January 1970 when it was approved by the general meeting of the Corporation as required by sec. 85 of the General By-law (Ex. 773), which meeting, in fact, resulted in a stoppage of work, a situation which should not re-occur now that the amendment has been ratified.

*Inter alia*, the Corporation is purported to have full control over the pilots' earnings and the By-law purports to lay down that a pilot who has joined the Corporation can not withdraw from it of his own volition as long as he remains a licensed pilot, unless he is expelled by a decision of the Board of Directors.

The composition of the Board of Directors reflects the *de facto* division of the pilots. It consists of eight Directors, i.e., a President, two Vice-presidents, the former President *ex officio* and four Directors. The President is chosen one year from the pilots of one sector and the following year from the pilots of the other sector. The First Vice-president is chosen from the pilots of the sector to which the President does not belong and the Second Vice-president is chosen from the pilots of the other sector. The four Directors are selected in equal numbers from each group. The President is on the Board of Directors for two years, one as President and the other *ex officio* as Past President; the Directors are elected for a two-year term, two each year; the tenure of the Vice-presidents is one year. Except for the President and the Past President who can not remain as such for a further consecutive term, all others are eligible for re-election.

The main differences between this Board of Directors and the Association's are the rule that the President and the Past President are not eligible for re-election and the size of the Board—eight members instead of five.

The Directors are remunerated for time spent on Corporation business in the same way as in Quebec, i.e., free turns are granted.

The Secretary-Treasurer or the Secretary and the Treasurer are not necessarily chosen from the Directors, nor do they need to be members. They are appointed together with the other personnel whom the Board of Directors consider necessary to administer the Corporation. In fact, the present Secretary and two accountants in his office are not pilots.

One of the eight dissident pilots at the time of the Commission's hearings, pilot Laurent Hamelin, testified before the Commission and explained the circumstances. The reasons for their stand are the same as those



voiced by the dissidents in the Quebec District. They were satisfied with the partnership agreement but objected to the complete control the Corporation would have over their personal earnings and the wide discretionary powers given to the Board of Directors.

They also were frustrated by the discriminatory way they were treated at the preliminary meetings for the formation of the corporation when they tried to communicate their point of view to their fellow pilots. When a first proposal concerning incorporation was submitted to the pilots, pilot Hamelin and two other pilots consulted an independent legal adviser at their own expense. His opinion was not favourable to the proposal (vide Part I, p. 93). At the next meeting they requested the opportunity to have their legal adviser address the meeting to give their fellow pilots the benefit of his advice. This request was refused by the Chairman although the Association's legal adviser who had suggested incorporation was present. In their view this attitude adopted by the proponents of incorporation confirmed the objections and apprehension expressed in the legal advice they had received. After this, pilot Hamelin decided not to pursue his opposition since he was not in a financial position to oppose those in control of the Association who were in favour of incorporation.

After the formation of the Corporation in the winter of 1959, the dissident pilots received an invitation to attend the Association meeting but not the Corporation meeting which was to be held one day earlier. Following the advice of their legal adviser, pilot Hamelin and two other dissidents attempted to attend the Corporation meeting only to be enjoined by the President to leave since they were not members. The following day, they attended the Association meeting and asked for an explanation of various items on the agenda. However, the other pilots who had attended the Corporation meeting the day before objected to re-opening debate on questions that had already been studied and settled at that meeting. After this frustrating experience they did not attend future meetings of the Association.

Pilot Hamelin charged that the Corporation is much more expensive to operate than the Association was (pp. 693-5).

He objected to the changes the Corporation made in the pooling system and claimed that grading pilots as to competency created dissension because the pool was no longer divided into equal shares but only the remaining money in the pool was divided after bonuses were paid to Grade A pilots.

He complained that the financial statements given to the pilots by the Corporation are incomplete in that they show only the amount of money paid to each pilot out of the pool during the year, but do not indicate the amount his services yielded for the pool and that, therefore, the pilots are

unable to ascertain from these statements the actual cost of operating the Corporation (vide pp. 688 and ff. and pp. 797-800).

Pilot Hamelin stated, however, that there has never been any discrimination against the eight dissident pilots. No pressure whatsoever was exerted on them "to make them change their mind".

He opposed the recommendation of the Pilots' Federation that the administration of the pilotage service be entrusted to the pilots themselves through their Corporation because pilots are not business men and, furthermore, their workload leaves them no time for other business.

He participated in the 1962 strike, not so much out of conviction but to avoid difficulty with his colleagues.

(c) *The Corporation of the Montreal Harbour Pilots*

By the end of 1957, the 12 newly licensed pilots who formed the Montreal harbour pilots' group decided to form a professional organization and, following the example set by the St. Lawrence-Kingston-Ottawa pilots the year before from the ranks of whom some of them were recruited, opted for a corporation.

The letters patent were issued by the Secretary of State January 2, 1958, incorporating them under Part II of the Federal Companies Act (Ex. 792).

The nature of this Corporation and its aims are the same as those of the Corporation of the Lower St. Lawrence Pilots (vide pp. 272 and ff.) and the Corporation of the Mid-St. Lawrence Pilots.

Although, as for other similar Corporations, there is no automatic membership, all the pilots licensed as harbour pilots joined their Corporation as soon as they received their licence. Each also signed a power of attorney in the name of the Corporation authorizing it to receive on his behalf from the Pilotage Authority all pilotage monies owed him (Ex. 793).

The Corporation is administered by a five-member Board of Directors, a President, a Vice-president and three Directors whose term of office is limited to one year. The slate of Corporation officers and Directors between 1958 and 1964 shows that almost all harbour pilots have had an opportunity to sit on the Board of Directors of their professional corporation: 14 out of 16 had by then been Directors for at least one year.

Neither the Secretary nor the Treasurer need be a pilot. In fact, since the creation of the Corporation, these two posts have been entrusted to an insurance broker, Mr. Jacques R. Saucier, as a part-time paid occupation. Mr. Saucier is also Secretary-Treasurer of two other such Corporations, i.e., the Corporation of the St. Lawrence River and Seaway Pilots and the Corporation of the Upper St. Lawrence Pilots. He handles their affairs from his private office.

### COMMENTS

As has been the case with the other Pilots' Corporations, all the Montreal harbour pilots who have been licensed since the formation of their Corporation have joined on a voluntary basis. With regard to the other Corporations, the question was raised whether newly licensed pilots are really in a position to make a free decision. They are unlikely to have had an opportunity to obtain details of all the implications and are under considerable indirect moral pressure in that they are in no position to take a firm stand against the group. Their motivation at that time must be to encourage recognition and acceptance by their fellow pilots. In the case of the Montreal harbour pilots, this moral pressure is intensified by the procedure for admission into the service, i.e., the first licence is probationary and a probationary pilot would feel it quite unwise to offend his fellows by refusing to join their Corporation when their favourable appraisal of his professional performance will be a deciding factor when the time comes to obtain his permanent licence. Therefore, it would appear that freedom of decision is purely theoretical and the new pilot has no choice but to join the Corporation. Once he has joined, the by-laws purport to deny him the right to resign his membership. It follows that, in practice, the Corporation is a compulsory professional association. While the result is highly desirable, it is considered that the method is wrong. This situation will be corrected if, as recommended by the Commission, each separate group of pilots automatically forms a statutory professional Corporation (vide Gen. Rec. 25, Part I, p. 549).

#### (d) *Finance*

While both the River Pilots' Corporation and the Harbour Pilots' Corporation operate as if they were a pooling partnership, their accounting procedure and their financial statements are not comparable because they adopt different pooling methods. Furthermore, although in practice their methods of remunerating the pilots are generally the same, i.e., a pooling system operated by the Pilots' Corporation, the governing legislation is different.

Their respective bookkeeping and records are audited by chartered accountants who certify the Corporations' annual financial statements.

#### *Mid-St. Lawrence Pilots' Corporation*

As is the case with the Quebec Pilots' Corporation, the financial operations of the Montreal River Pilots' Corporation extend into two distinct fields, i.e., the Corporation's own financial operations and the management and operation of the pool. By contrast, however, the Montreal By-law recognizes the right of the Montreal river pilots' professional organisation to receive payment of pilotage earnings on behalf of the river pilots and, hence, indirectly accepts their pooling arrangements.



Apart from the question of the By-law's legality, a further problem arose when it was not amended to make the pilots' earnings payable to the Pilots' Corporation instead of the United Montreal Pilots when this partnership was allowed to lapse at the end of 1968. When the Corporation became operative in 1959, it took over administration of the pool from the Association. The By-law, however, was left unchanged, presumably because the Corporation was not fully representative while the Association was. The Pilotage Authority is still making cheques payable to the United Montreal Pilots, which no longer exists, and the Mid-St. Lawrence Corporation has had to resort to the device (of dubious legality, to say the least) of a special bank account in the name of the "Corporation of the Mid-St. Lawrence Pilots in trust for the United Montreal Pilots" to be able to cash cheques and take possession of the pilots' earnings (Ex. 1539(i)). Because of the dubious legality of this By-law provision which is temporarily covered by the interim legislation of sec. 7 of the 1969 amendment to the Canada Shipping Act (p. 571), the Pilotage Authority does not intend to make the necessary amendment until the expected new Pilotage Act is passed (Ex. 1539(j)).

However, the cessation of the Association has complicated the operation of the pool because it is now limited to Corporation members since it is now governed solely by Corporation By-law No. 2. At each distribution, the two remaining dissident pilots are paid the dues they have earned by their services less the Pension Fund compulsory contribution and a prorated contribution toward the Corporation's administrative expenses. They are not made to share in the other group expenses, i.e., the Federation dues, since they no longer belong to the Federation, nor the group insurance premiums from which they no longer benefit. These two pilots, however, are governed by the same despatching procedure but do not profit from the sickness benefits provided under the pool regulations (Ex. 1539(i)). It is, *inter alia*, on account of situations of this nature that this Commission has made its General Recommendation 25 (Part 1, p. 549).

The Corporation's operations are financed in the same manner as in Quebec. Although section 74 of Corporation By-law No. 1 provides for the normal method of financing, i.e., regular and special dues, financial operations are conducted as if the Corporation were the pooling association, i.e., by paying its own administrative expenses as a first charge against the pool. The remarks on pp. 282 and 283 apply here.

The different procedure adopted for financial operations is the result of a basically different pooling system. Despite this difference, the same method of financial reporting is used in both Districts. This accurately reflects the system followed by the Quebec Pilots' Corporation but not the Montreal Pilot's Corporation procedure and, hence, causes considerable confusion.

While the method of determining the number of sharing rights is the same in principle, i.e., using turns, the basis of the value of these rights

and the manner of financing distribution are totally different. The basis of sharing is the aggregate amount of money actually available and not the amount of dues earned; in other words, receipts and not revenue. The only advantage of this system is that there is no problem financing distribution because funds are available to effect immediate payment. (For further comments on the propriety of such a pooling system, vide pp. 793 and ff.) Therefore, there is no advance or interim distribution, each one being complete and final. Hence, the value of a turn varies from one distribution to another within the same year and there are as many pooling periods as there are distributions. With this pooling method the real financial statements are the financial reports which accompany each distribution and not the Corporation's annual statements.

A statement of *Receipts* and *Disbursements* would appear to be the proper method for accounting for such pooling operations. The *Revenues* and *Expenses* statement, which is used instead, not only is meaningless for this purpose but creates confusion by showing large sums of undistributed earning which, if all the funds available were distributed, should then correspond to the accounts receivable, i.e., the dues earned but not yet collected on the distribution date.

Since cash must be retained to meet recurring or expected administrative expenses, this method of pooling makes it necessary to establish reserves which are deducted from the funds being shared. The confusion is further compounded because, as a rule, the net funds available after allowance has been made for these reserves is not fully shared but the amount to be shared is determined by administrative decisions of the Corporation's Board of Directors.

In fact, the procedure followed pertains to a company with shareholders but is inconsistent for a corporation created under Part II of the Federal Corporations Act and with the operation of a pooling system. The Corporation Directors are treating the pilots' earnings as if they were Corporation earnings over which the Corporation has unlimited powers. The aggregate undistributed earnings (cash and receivable accounts) are called the "Corporation Fund", and the pilots' shares take the form of dividends issued out of the Corporation's own profits at the complete discretion of its Board of Directors (this accounts for the even amount of a maximum share from the pool, e.g., the aggregate amount from all distributions in 1966 came to \$16,050; in 1967, \$16,000; in 1968, \$15,475). No doubt this is the cause of the complaint made by some pilots that the Corporation has failed to give a true and complete accounting of their earnings (pp. 686-7).

Exhibit 567, for instance, is the financial report which was sent to the pilots purporting to account for sharing the pool "for the month of May 1963". It consists of three statements:

- (i) an Assets and Liabilities statement showing the financial situation on May 31, after distribution;
- (ii) a Revenues and Expenses statement showing revenues earned and expenses incurred during the pooling period, which in this case corresponded to the month of May;
- (iii) a breakdown per pilot of the "regular distribution".

The *Assets and Liabilities* statement is a balance sheet as of May 31 which, after distribution, shows \$200,710 worth of assets as follows:

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Funds available (on hand or in the bank).....	\$	2,067.64
Accounts receivable—		
Dues collected by the Pilotage Authority.....	73,937.62	
Dues earned but not collected.....	112,510.06	186,447.68
Deposit—Quebec-Hydro.....		25.00
Value of furniture less reserve for depreciation.....		12,169.68
Total assets.....	\$	200,710.00

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The liabilities section consists of the following (the heading in italics does not appear on the statement, but was added by the Commission for better comprehension):

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<i>Corporation's liabilities</i>		
Accounts payable.....	\$	6,582.90
Reserve for administration.....		3,000.00
Reserve for furniture purchase.....		(7,221.56)
<i>Assets belonging to the pilots</i>		
(called the Corporation Fund).....		198,348.66
Total liabilities.....	\$	200,710.00

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The statement of Revenues and Expenses shows in the revenues column the pilots' earnings during the month—\$206,849.03 (most of which would account for the \$186,447.68 in accounts receivable shown on the balance sheet). The expenses column shows the aggregate amount of administrative costs of \$5,932.07 but gives no details. It also shows the aggregate amount of the non-pooled items paid to the pilots, the amount paid to the Pension Fund and the distribution of pooled money (called the "regular distribution") that was paid out to the pilots. The total was \$130,127.49, leaving a surplus for the month of \$70,789.47 (which was added to the "Corporation Fund" bringing it to \$198,348.66 as shown in the balance sheet). This "Corporation Fund" was not shared among the pilots to whom it belonged because there was no money available to make a larger distribution. The "Corporation Fund" in this instance represented mostly pilotage dues earned but not yet collected as of May 31.



The third document gives the details of those payments to the pilots called the "regular distribution", i.e., the share of the net pool paid to each pilot. The procedure followed by the Board of Directors in fixing the amount of a given "regular distribution" is, in conformity with the dividend procedure, to establish the amount of the maximum share to be paid, in this case \$930. The amount of partial shares is determined by the pilot's grade and the method of sharing turns. The details of the other pilotage earnings which are not pooled but paid to the pilots (movages, detentions, cancellations, transportation allowances and Grade A bonuses) are shown neither in this statement nor in other sections of the periodic distribution reports. Only the aggregate amount for each item appears in the statement of Revenues and Expenses.

The annual financial report (Ex. 785) takes the form of four documents made up according to the same procedure:

- (i) A balance sheet, i.e., a statement of Assets and Liabilities, shows the financial situation as of the last day of the financial year. The financial year used to coincide with the calendar year but since 1968 has terminated November 30. Therefore, when comparing the 1968 figures with those of previous years it should be borne in mind that the 1968 financial statement covers only 11 months' operations.

This statement, therefore, shows as of the last day of the financial year money still on hand and in the bank account, the various accounts receivable which are segregated by the year in which they were earned and the value of movable assets less depreciation. The liabilities section shows the reserve kept to meet the expected administrative costs of the Corporation, the reserve to compensate for the depreciation of movable assets and, finally, the "Corporation Fund" which, as of December 31, 1967, amounted to \$474,130.12. The fund on hand and in the bank was then \$125,482.06, most of which could have been shared and, according to the pooling rules, should have been shared among the pilots since there were no outstanding payable accounts.

- (ii) A second statement establishes the surplus on hand as of the end of the financial year. It consists of the surplus at the beginning of the year plus the increase or decrease in the two reserves mentioned above and the surplus or deficit of operations for the current year.
- (iii) The third statement is a statement of Revenues and Expenses showing the amount of dues earned by the pilots and other items of revenue to which the pilots and the Corporation became entitled during the year and the liabilities incurred during the year.

*For 1967, revenue was as follows:*

Dues earned by the pilots.....	\$ 2,523,010.41
Value of free turns paid by the Pilots' Federation.....	13,422.90
Interest on deposits.....	772.34
Total revenue.....	\$ 2,537,205.65

*Expenses comprised the following:*

Administration (details given).....	\$ 64,911.52
Group expenses (Federation dues, group insurance premiums)	98,437.37
Payments to pilots:	
Regular distributions.....	2,095,668.40
Non-pooled dues.....	170,012.21
Pension Fund compulsory contributions.....	253,788.87
Deficit.....	(\$ 145,612.72)

The deficit shown above is not, in fact, a deficit since the undistributed assets at the end of 1967, after deducting this deficit, still show an undistributed balance of \$474,130.12 (of which \$125,482.06 was in cash). This is a meaningless figure which is the result of adopting for financial statements the normal procedure of reporting the financial operations of a Corporation with its own assets while, in fact, these statements are supposed to report on the operation of the pool.

- (iv) The fourth statement shows what has been actually paid each pilot during the financial year and of what such payment consisted, i.e., his shares of the so-called "regular distributions" and the amount collected of the non-pooled dues he earned. It also shows the number of sharing turns to the credit of each pilot at the end of the year, the number of movages and Grade A trips he performed, the number of his detentions and cancellations and the number of times he was entitled to the transportation allowance for embarking or disembarking at St. Lambert lock. In 1967, the aggregate maximum amount of the shares from the pool for a pilot was \$16,000 and the maximum aggregate amount paid to a pilot was \$19,072.90, not counting the amounts paid on his behalf, i.e., contributions to the Pension Fund and group insurance and his Federation dues.

The confusion between the financial operations of the Corporation and those of the pool have led to the impression that administration under the corporation system has been substantially more expensive than under the association system. This impression, however, is easily dispelled when the annual statement of Revenues and Expenses is studied. By contrast with

the corresponding statement in the Quebec Corporation's financial report, the various items of expenditure are detailed and segregated and it is easy to distinguish those attributable to the Corporation's administration from group expenses and payments to the pilots.

In order to establish the true cost of the Corporation's operations, it is also necessary to obtain the monetary value of the free turns granted the Directors and other pilots for attending to the affairs of the Corporation, and for time spent for the benefit of the pilots as a group. As in Quebec, the practice of granting free turns began with the Corporation. The number of free turns so granted each year appears in the table on p. 795. Since no record was kept of the monetary value of these turns and the value varies from one distribution to another because of the way the river pilots operate their pool, this table shows the average value for the year.

The following table shows for the years 1955-1968 inclusive Association and Corporation expenditures segregated to show separately expenditures incurred as group expenses for the pilots and those for the operations of the Corporation, together with the value of free turns, in order to show accurately the cost of administering the Corporation.

Year	Total expenditures excluding payments to pilots and to Pension Fund	Expenditures other than administrative expenditures*	Administrative Costs		
			Expen- ditures	Monetary value of free turns	Total
Association					
1955.....	25,807.76	3,950.64	21,857.12	—	21,857.12
1956.....	30,977.93	4,913.88	26,064.05	—	26,064.05
1957.....	47,159.11	5,663.28	41,495.83	—	41,495.83
1958.....	48,389.25	5,328.00	43,061.25	—	43,061.25
Corporation					
1959.....	59,208.47	9,685.07	49,523.40	—	49,523.40
1960.....	67,132.29	16,892.50	50,239.79	11,065.56	61,305.35
1961.....	64,374.97	21,166.00	43,208.97	8,221.46	51,430.43
1962.....	86,188.25	36,925.00	49,263.25	14,677.16	63,940.41
1963.....	117,020.35	71,557.30	45,463.05	20,858.18	66,321.23
1964.....	107,738.28	63,633.64	44,104.64	12,040.50	56,145.14
1965.....	127,860.98	67,023.92	60,837.06	n/av.	n/av.
1966.....	138,854.07	75,794.68	63,059.39	n/av.	n/av.
1967.....	163,348.89	98,437.37	64,911.52	n/av.	n/av.
1968.....	159,057.48	100,079.35	58,978.13	32,486.16	91,464.29

\*Not including capital cost of furniture purchased but including the share of depreciation reserve.

Total expenditures, apart from payments to the pilots and the Pension Fund, have increased greatly during the last 14 years (516.3%), but as is clearly apparent from the preceding table this is accounted for by expenditures



on behalf of the pilots for Federation dues and group insurance which have risen from \$3,950.64 in 1955 to \$100,079.35 in 1968. By contrast, administrative expenditures show a slight normal growth since the beginning of the Corporation.

The table p. 696 shows for a few selected years the breakdown of pool expenditures before payment to pilots and Pension Fund.

This table proves that administrative costs have increased at a normal rate taking into consideration inflation, the increase in the number of pilots and the numerous professional problems which required the Corporations' attention. Comparison with the expenses of the Quebec Pilots' Corporation shows that the increase over the same 14-year period has been much less pronounced—Quebec Corporation 298.6%, Montreal River Pilots' Corporation 169.8%.

The item *Statistics* accounted for expenditures incurred by the Corporation to keep accurate and detailed data. This project was discontinued in 1967 because of the cost and time involved and also because the required information is now available through the computer service of the Department of Transport.

Group expenses, however, have increased both in category and amount. The item *Association Dues* now comprises only the Pilots' Federation annual dues and special assessments (compulsory membership in the Canadian Merchant Service Guild was discontinued in 1966). Originally, the pilots did not carry any group insurance but in 1963 life, accident, sickness and group insurance was introduced, followed in 1966 by protection against suspension or loss of licence.

The comments on pp. 289 and 290 apply here *mutatis mutandis*. Vide also the comments on the pooling system, p. 801.

#### *Harbour Pilots' Corporation*

The financial operations and financing procedure of this Corporation are the same as those of the River Pilots' Corporation, but their financial statements are not comparable because their pooling systems differ and the regular Corporation's financial reports have been expanded to include a complete, accurate account of pooling operations.

Although no Corporation dues are charged (authorized by Corporation By-law No. 1, sec. 37, and By-law No. 3, sec. 9, Ex. 792), a \$150 initiation fee is imposed on new members pursuant to subsec. 37(a) of Corporation By-law No. 1 (amendment dated October 24, 1960). These fees are entered into the pool and shared with the other pooled revenues. The philosophy behind this charge is that the new members should be made to share in the expense the other pilots have had to bear to organize the Corporation and partial reimbursement is made to the other pilots by entering these fees into the pool. So far such initiation fees have been levied on four occasions.

## MONTREAL RIVER PILOTS—ADMINISTRATIVE AND GROUP EXPENDITURES

Item of Expense	United Montreal Pilots		Corporation of Mid-St. Lawrence Pilots		
	1955	1958	1960	1964	1968
<i>Administrative Expenditures</i>					
Staff:					
Salaries.....	\$ —	\$ —	\$ 17,083.46	\$ 17,995.00	\$ 16,947.53
Pension Fund.....	—	—	—	—	673.20
U.I.C. and Quebec Pension Plan.....	—	—	73.96	45.96	285.62
	—	—	17,157.42	18,040.96	17,906.35
Office:					
Electricity, telephone, rent and water.....	2,040.50	2,176.57	2,636.70	2,567.07	5,756.27
Insurance: fidelity, fire, theft, etc.....	283.17	285.00	652.07	767.78	189.26
Stationery, printing, etc.....	1,068.63	811.50	2,406.25	2,735.70	3,028.57
Stamps, telegrams and maintenance.....	532.46	541.53	1,546.80	1,239.12	1,214.11
Reserve for depreciation.....	788.30	830.14	1,346.71	1,621.10	1,407.94
Directors and Committees.....	4,528.21	4,545.42	9,588.10	7,700.31	17,781.78
Legal, advisers, auditors, economists: fees.....	12,120.50	32,636.58	14,393.75	5,942.79	8,415.43
Royal Commission on Pilotage.....	—	—	—	1,724.90	2,399.69
Statistics.....	—	—	—	1,140.95	—
Miscellaneous.....	495.35	1,234.51	511.99	623.96	878.73
Total administrative expenditures.....	21,857.12	43,061.25	50,239.79	44,104.64	58,978.13
<i>Group Expenditures</i>					
Group insurances.....	—	—	—	31,899.64	71,297.10
Insurance certificates.....	—	—	—	—	3,976.00
Dues to Associations.....	3,950.64	5,328.00	16,892.50	31,734.00	24,806.25
Total group expenditures.....	3,950.64	5,328.00	16,892.50	63,633.64	100,079.35
Grand Total.....	\$ 25,807.76	\$ 48,389.25	\$ 67,132.29	\$ 107,738.28	\$ 159,057.48

SOURCE: Ex. 785.

There is also a difference from the point of view of the governing legislation: not only does the By-law not recognize the right of the Corporation to receive the pilots' earnings but it specifically establishes the method of remunerating the harbour pilots, i.e., a pooling system based on availability for duty, operated and managed by the Pilotage Authority itself (By-law sec. 46). This procedure was originally followed but was discontinued when the Authority was furnished with a power of attorney signed by each pilot authorising the Authority to pay the dues he earns to the Corporation on his behalf (Ex. 1501(a)). Since then the Pilotage Authority has handed over to the Harbour Pilots' Corporation all dues collected for movages in the harbour of Montreal, whether or not performed by harbour pilots, and has left it to the Corporation to distribute the earnings to the harbour pilots through the pooling system they themselves devised.

Because pooling operations are combined with the Corporation's operations, the regular financial statements of the Corporation would be almost meaningless if they were not supported by two statements which, by contrast with those of the Montreal River Pilots' Corporation, show complete details of the pooling system which disposes of all earnings. This can be achieved because the harbour pilots have adopted a true pooling procedure which is the same as the one in force in the Quebec District, except for the method of paying the pilots their share of the distribution. The pooling period extends over the calendar year; the number of sharing rights is determined by turns, i.e., in relation to work done; the value of the sharing rights is established on the basis of dues earned during the pooling period but shares are paid only out of dues so shared and as they are collected. Hence, the operations of a pooling period are not closed until the last of the pilotage dues for that pooling period are collected or are written off as bad debts.

The annual financial report (Ex. 802) comprises three statements:

- (i) a balance sheet as at the end of the financial year;
- (ii) a statement of Receipts and Disbursements for the financial year together with a supporting table giving details of payments made to each pilot on his share and other money owed him from the current pooling and on any outstanding balances from previous distributions;
- (iii) a complete financial statement amounting to a statement of Revenues and Expenditures explaining the pooling operations with its two supporting documents, a detailed statement of pool liabilities and a statement showing for each pilot the amounts to which he is entitled from the pool, what has been paid on this during a pooling period and what remains to be paid at the end of the pooling period.

The first statement is a balance sheet showing the situation as regards the Corporation's assets and liabilities at the end of the financial year, i.e., December 31. The only items in the assets column are "Money on hand



and in the bank" and "Accounts receivable". Because of special arrangements the Corporation was able to make, it does not own any office furniture or movable assets. The relatively small amount of administrative and clerical work is handled on a part-time basis by the Corporation's Secretary and Treasurer in his own personal office. The Corporation does not maintain any Corporation Fund or any reserve. In view of the method adopted for distributing each pooling, the accounts receivable are segregated by pooling periods. As at December 31, 1968, the balance sheet showed the following assets:

#### BALANCE SHEET

<i>Assets</i>	
Money on hand and in the bank.....	\$ 3,013.46
Accounts receivable for dues earned	
1966 season.....	\$ 36.80
1967 season.....	297.66
1968 season.....	39,310.43
	<hr/> 39,644.89
Total Assets.....	\$ 42,658.35

The liabilities section reflects the pooling system and the method of financing. Pooling is operated on the basis of earnings and liabilities. Liabilities incurred during a given pooling period which are outstanding at the end of that period are met only from the earnings of that period when they are collected. Administrative expenses are given priority over the outstanding balance of general distribution. No reserve is held for operating expenses that will be incurred at the beginning of the next pooling period; these are being met by borrowing from the money on hand and by effecting reimbursement as soon as sufficient funds become available from the pooling period concerned. Since all the earnings enter in the computation of the pilots' shares, there is no undistributed amount carried over to the next pooling period but only payable accounts.

Liabilities at the end of the 1968 financial year were as follows:

<i>Liabilities</i>	
Accounts payable for administrative costs.....	\$ 492.98
Accounts payable to the pilots	
Non-pooled money 1967 season.....	\$ 8.47
Non-pooled money 1968 season.....	4,153.93
Pooled money 1964.....	193.50
Pooled money 1966.....	105.70
Pooled money 1967.....	1,885.00
Pooled money 1968.....	35,818.77
	<hr/> 42,165.37
Total Liabilities.....	\$ 42,658.35

The second document is a statement of receipts and disbursements for the financial year which, therefore, reflects only cash transactions.

The receipts section first shows funds on hand and in the bank on the first day of the year, and then lists the aggregate pilotage dues collected by the Pilotage Authority and remitted to the Corporation during the year segregated by the pooling period to which they belong. Receipts for the year 1968 were as follows:

Cash on hand and in bank January 1, 1968.....		\$ 26,446.97
Receipts 1964 season.....	\$ 112.50	
Receipts 1966 season.....	72.45	
Receipts 1967 season.....	25,310.42	
Receipts 1968 season.....	228,930.70	
		\$ 254,426.07
Total.....		\$ 280,873.04

The disbursements statement shows payments made for administrative expenses during the year or outstanding from the previous year, payments for group expenses, i.e., Federation dues and group insurance, various payments to the pilots on the outstanding balance of their shares and other money owed them from various pooling periods and, finally, money on hand and in the bank at the end of the year. Disbursements for 1968 were as follows:

Administrative expenses		
Payment of outstanding accounts from the previous year.....	\$ 1,447.31	
Current costs.....		10,174.29
Group expenses		
Federation fees.....	\$ 3,500.00	
Group insurance.....	11,681.56	
		15,181.56
Payments made to the pilots		
Detentions 1964.....	6.00	
Detentions 1966.....	3.45	
Detentions 1967.....	3,494.97	
Detentions 1968.....	15,534.60	
		19,039.02
Net pooling 1967.....	45,017.40	
Net pooling 1968.....	187,000.00	
		232,017.40
Total disbursements.....	\$ 277,859.58	
Cash on hand and in the bank December 31, 1968.....	\$ 3,013.46	

Two supporting documents give details of payments to each pilot or on his behalf during the year on what was owed him for the current pooling period and was still outstanding from previous pooling periods.

A third document is the calculation and distribution of the current pooling which is operated on the basis of revenues and expenditures. It shows all pilotage earnings, including those that belong to the Receiver General of Canada (radiotelephone rental charges) for the pooling period which corresponds to the calendar year. This is done by adding all the invoices sent by the Pilotage Authority for pilotage dues payable on account of movages in the harbour of Montreal and accessory dues earned by harbour pilots, i.e., detentions and cancellations. The net pooling is obtained by deducting earnings that do not enter into the pool, i.e., radiotelephone rental charges which belong to the Receiver General of Canada, detentions and cancellation charges which belong to the pilots concerned and administrative expenses incurred during the year. The amount left is the net pooling from which the pilots' shares are established. These shares are listed in one of the supporting documents.

In 1968, the net pooling income amounted to \$238,000.33 entitling each pilot to a share of \$11,900.00 plus 1 or 2 cents. The calculation of the net pooling income was as follows:

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1968 earnings.....	\$ 269,946.13
Less:	
radiotelephone rental charges.....	\$ 1,590.00
detentions and cancellation charges.....	19,688.53
expenses for administration.....	10,667.27
Net pooling income.....	\$ 238,000.33

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This is followed by a section showing how much of the net pooling income was paid to or on behalf of the pilots and how much still remains outstanding. The breakdown per pilot is given in the supporting documents. For 1968, this was shown as follows:

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Payments made:	
On behalf of the pilots (insurance premiums and Federation dues).....	\$ 15,181.56
To the pilots.....	187,000.00
Balance of net pooling outstanding as payable accounts to the pilots.....	35,818.77
Net pooling income.....	\$ 238,000.33

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The Harbour Pilots' Corporation financial statements clearly segregate group expenditures paid out of the pool on behalf of each individual pilot from administrative expenses. However, for comparative purposes they are grouped here (p. 701) in the same manner as on pages 284 and 694. Also to establish the real cost of administration, the value of free turns granted the Corporation Directors is indicated and added. The table is established on the basis of liabilities (not expenditures).



Year***	Total liabilities prior to distribution	Liabilities other than administrative liabilities	Administrative Cost		
			Administrative liabilities	Value of free turns**** to Directors	Total
1959/60.....	16,808.46	10,602.45*	6,206.01	nil	6,206.01
1960/61.....	14,141.32	9,633.26	4,508.06	1,332.09	5,840.15
1961**.....	15,715.40	10,514.40	5,201.00	819.54	6,020.54
1962.....	16,850.89	10,642.88	6,208.01	2,537.60	8,745.61
1963.....	20,750.17	11,794.53	8,955.64	4,130.28	13,085.92
1964.....	21,570.22	11,778.28	9,791.94	3,185.52	12,977.46
1965.....	26,513.02	17,579.80*	8,933.22	2,133.81	11,067.03
1966.....	29,245.32	19,659.48*	9,585.84	1,739.99	11,325.83
1967.....	25,206.94	15,224.41	9,982.53	1,764.85	11,747.38
1968.....	25,848.83	15,181.56	10,667.27	3,631.88	14,299.15

\* including salaries of apprentices.

\*\* 1/3/61-31/12/61 change from fiscal year to calendar year.

\*\*\* year 1958/59 not shown due to lack of complete information.

\*\*\*\* vide tables pp. 694 and 726.

The nature and amount of the various items of operating expenditures are fairly constant from year to year. The following is a breakdown of the Corporation's expenses for 1968:

#### Administrative Expenses

Secretary and Treasurer's remuneration.....	\$ 4,600.00	
Legal expenses.....	3,177.10	
Supervision of free moves.....	202.00	
Meeting expenses.....	271.59	
Expenses paid to Directors.....	934.19	
Convention expenses.....	425.85	
Stationery.....	152.44	
Telegrams and telephone.....	48.49	
Postage.....	62.00	
Bank charge.....	15.30	
Expenses for Royal Commission.....	51.50	
Christmas gifts and flowers.....	271.81	
Audit.....	450.00	
Miscellaneous.....	5.00	
		\$ 10,667.27
Other disbursements from the pool		
Insurance premiums.....	11,681.56	
Federation fees and conventions.....	3,500.00	
		15,181.56
Total disbursements from the pool prior to distribution to pilots.....		\$ 25,848.83

There is also an item of expense which occurs infrequently: apprentices' remuneration. It has always been the policy to remunerate harbour pilot candidates during their short training period. The necessary funds for the first group in 1957 and 1958 were provided by members of the Shipping Federation (pp. 677-8), and for later trainees by the harbour pilots from the pool as part of their administrative expenses (p. 679). To date, the pilots have paid the following amounts: 1959/60—\$1,890; 1965—\$4,800; 1966—\$4,180.

The Secretary's remuneration is 1.25% of the dues collected. The item of "Supervision of free moves" is the remuneration which is noted each year for the pilot who is charged with the responsibility of establishing which movages were effected without pilots by ships subject to the compulsory payment of dues.

The comments on pp. 289 and 290 apply *mutatis mutandis*. For the study of the pooling procedure and the Commission's comments, vide pp. 803 and ff.

#### (4) CONFLICTS BETWEEN PILOTS, SHIPPING INTERESTS AND PILOTAGE AUTHORITY

The tension and misapprehension that had been developing for many years can be mainly attributed to the following basic causes:

- (i) failure on the part of the Government and the Pilotage Authority to realize that the principles on which the statutory pilotage legislation was based no longer corresponded to modern requirements for the provision of an efficient, reliable pilotage service;
- (ii) unrelenting efforts on the part of the shipping interests to retain antiquated principles, such as free enterprise, keeping pilotage an open profession, the unrestricted right of a Master to choose his pilot, identification of the shipowner's interest with public interest, the special pilot system and denial to the pilots of the right to group themselves in a professional Corporation;
- (iii) insistence by the pilots, despite changing times and possible conflict with public interest, on assuming direction of, and responsibility for, the pilotage service.

The climate thus created caused an increasing number of conflicts which resulted in threats of strikes, and even strikes in 1898 and in 1962, and which also reflected adversely upon the quality and efficiency of the service. The Commission has reviewed and analysed the case histories of these conflicts and other similar occurrences in other Districts and with this background has formulated its General Recommendations (Part I, pp. 455 and ff.).

Since 1850, the pilots have been trying to obtain complete control over the provision of pilotage services and the exercise of the pilots' profession

in the Montreal District. In substance, the pilots' requests today are the same as when they sought incorporation through an Act of Parliament in 1850 and later made repeated but unsuccessful attempts which led to the 1898 strike. Although the governing provisions of the statutory legislation have remained substantially unchanged, the factual situation is completely different in that the Pilotage Authority has recognized the necessity for a fully controlled service and has taken responsibility for its direction in the public interest.

For details of the conflicts between 1850 and 1954, vide pp. 587 and ff.

The pilots have retained an unfavourable impression of their relations with the Shipping Federation prior to 1956. Pilot Orance Hamelin complained about the overbearing, paternalistic attitude of the shipping interests at that time. He complained that the Federation acted as if it were the Pilotage Authority in that it convened the pilots to meetings for the purpose of studying pilotage problems and tariff matters but did not afford them an opportunity to present their point of view and then imposed decisions which it had previously arrived at. He stated that this situation arose because the pilots were not organized as a group and came to these meetings without sufficient background knowledge of the problems to be discussed. Although they undertook the necessary studies among themselves, they were unsuccessful because they lacked the advice of experts. These meetings were generally held in the premises of the Shipping Federation and were also attended by representatives of the Department of Transport who frequently arrived before the pilots' representatives. It was at one of these meetings that a representative of the Shipping Federation is said to have reproached the pilots for appearing without being properly organized and with no designated spokesman. It was at that time that the pilots decided never to attend future meetings without the assistance of someone who could speak for them.

The Montreal pilots then began serious studies of their problems and sought the advice of experts. This resulted in a brief they presented to the Pilotage Authority on March 8, 1957, which marked a turning point in relations between the pilots, the shipping interests and the Pilotage Authority. In this brief the pilots took the initiative and recommended the partition of the Montreal District into three distinct, autonomous Pilotage Districts, the abolition of the special pilot system and a substantial increase in rates. After prolonged, laborious negotiations between the pilots, the Shipping Federation and the Pilotage Authority, a compromise on two of the points was reached: half the requested increase in rates was granted and the division of pilotage duties was adopted as it exists today, i.e., the harbour pilots group was created and the *de facto* division of the District at Trois-Rivières was recognized for assignment purposes.

In a new brief in 1958 the pilots sought a completely new tariff structure but the Shipping Federation objected on the grounds that the proposed



changes were too involved to be fully studied in the time remaining before the opening of the navigation season and that, according to preliminary estimates, they would result in an unwarranted increase in pilotage revenue. The pilots and the Pilotage Authority agreed that consideration of the proposal should be postponed until after the next navigation season and that the consequences of the proposed system would be appraised in the interval. It was further agreed as an interim measure to grant a slight increase in the basic rates and to modify the detention provision.

In 1958, following the recommendations of the Shipping Federation, the Montreal Advisory Committee was created, principally to serve as a forum for negotiations between the parties involved. Many questions were debated, some successfully, e.g., the abolition of the special pilot system and the institution of pilot grades. The use of the Advisory Committee as a forum was abandoned because both the pilots and the Shipping Federation by-passed the Committee to make direct representations to the Pilotage Authority in Ottawa. The last such meeting was held February 27, 1959. For a summing up of the Committee's activities and the gradual deterioration of relations between the parties involved, vide pp. 661 and ff.

The main factor which seems to have caused the Shipping Federation's change of attitude towards the pilots was the intention of the pilots to group themselves in a professional corporation, which proposal the Federation tried to oppose by all means at its disposal from the moment it came to its knowledge. On January 7, 1959, in a letter addressed to Mr. A. Cumyn, Director of Marine Regulations, the Federation asked that action be taken by the Department of Transport to prevent the proposed incorporation, arguing that, if such a corporation were created and allowed to pool the pilots' earnings, it would in effect create a "closed shop" because the individual pilot would have no alternative to becoming a member of the corporation. They feared that the creation of a corporation would have the effect of concentrating authority in the hands of a small minority, the Board of Directors, which would act in the name of the group and the control it would have over the pilots' earnings could exercise undue pressure on the individual members. Furthermore, the Federation feared that the creation of a corporation would seriously restrict the efficiency of the control of the Pilotage Authority over the cost of the service and the discipline of pilots. As an alternative to incorporation, the Shipping Federation recommended that the pilots become Government employees. It would appear that this was the first time this proposal was made.

The Department of Transport had no legal means at its disposal to prevent the pilots from obtaining the type of incorporation they were seeking, i.e., under Part II of the Federal Companies Act, as had already been granted to other groups of pilots but, as seen earlier (p. 684), it tried unsuccessfully to dissuade the pilots.

At that time, the Shipping Federation experienced further disappointment when, despite its opposition, a 6 per cent increase was granted and the Pilotage Authority was legally unable to force the river pilots to terminate or commence a river trip at St. Lambert lock and yielded to the pilots' demand for an additional charge to compensate for the increase in length of the river trip (vide pp. 628-9).

In August 1959, the River Pilots' Corporation requested a 50 per cent surcharge for trips effected during that part of the year when adverse conditions usually prevailed, i.e., between November 1 and April 30. This proposal was considered unacceptable. Finally, a compromise was reached but only after difficult negotiations during which it was feared the pilots would resort to strike action. This threat induced the Pilotage Authority to seek the support of the shipping interests to prepare for such an eventuality. By Order in Council dated December 3, 1959, a compromise solution was approved by granting an hourly remuneration of \$3 not to exceed \$25 for each hour over 10 hours for a trip between Quebec and Trois-Rivières or Trois-Rivières and Montreal during the period of the year when navigation may well be hampered by ice, i.e., December 14-April 8.

In 1960, the parties became more entrenched in their positions. The pilots had become more conscious of their strength and, in order to present a united front, their members in the St. Lawrence Districts grouped themselves in a Federation. The St. Lawrence Pilots' Federation was granted its charter on November 5, 1959, and played a very active rôle.

On the other hand, the shipping interests had formed the opinion that the pilots' income had become disproportionately high and that the time had arrived to find a solution to the problem. Two facts contributed to this impression. First, there had been a sharp increase in gross pilotage revenues in 1959. In fact, that year had been exceptional. The opening of the Seaway had brought about a substantial increase in maritime traffic resulting in an increase of 33.76 per cent in the aggregate earnings of the river pilots and 90.53 per cent for the harbour pilots, instead of the 6 and 12 per cent that had been aimed at when, following the pilots' request, the Pilotage Authority, despite the opposition of the shipping interests, had increased the rates the year before. The Shipping Federation became determined that such errors in calculation should not be allowed to recur and decided that in future negotiations on rates a target income should first be established and the rates adjusted thereafter to meet the target. The Shipping Federation had come to realize that, contrary to the stand they had taken up to then, the pilots' status was not that of free entrepreneurs but of employees or quasi-employees of the Pilotage Authority. Hence, their remuneration would be a salary either directly or indirectly through a target income (Part I, pp. 144 and ff.)—a system that had already been adopted in England following the Letch Committee Report (Part I, p. 807). From 1960 on, the Shipping Federation was

to concentrate all its efforts on having this point of view accepted, and even went so far as to seek the support of public opinion.

The Shipping Federation's contention was supported by the statistics prepared by the Department of Transport relating to earnings and workload of pilots in the various Pilotage Districts which the Department had begun to publish that year. These statistics, especially the *effective pilot* figures, conveyed a false picture of the individual pilot's workload and earnings to the disadvantage of the pilots (Part I, pp. 147 and ff.). As was to be expected, since these statistics were taken at their face value by the shipping interests and the Pilotage Authority but were rejected by the pilots, negotiations were bound to be not only fruitless but likely to do further damage to relations between the parties.

On January 21, 1960, in a private meeting with the Deputy Minister of Transport, the Shipping Federation explained its apprehension. It argued the necessity of establishing criteria for fixing the pilots' remuneration, and the advantage of proceeding toward a certain equalization of income of the pilots in the various Districts. It felt that the question of pilots' remuneration should be considered as a whole and not piecemeal as had been the case so far. Experience had shown that an increase in the level of pilots' income in one District resulting from an increase in rates or a modification in the rate structure adopted because of the pilots' pressure was bound to result in demands by pilots of other Districts for modifications in their rates to bring their income to the new level. Apparently the Department was favourably impressed.

At the meetings which followed beginning on February 4, 1960, negotiations with pilots on rates were dealt with on a regional basis. The Shipping Federation tried without success to have the target income concept accepted.

Despite the fact that most of the pilots' proposals were either rejected or postponed, the shipping interests were disappointed by the lack of support they had received from the Pilotage Authority. In reply to the Deputy Minister's letter dated March 25, 1960, informing the Federation as to decisions reached by the Pilotage Authority on the pilots' proposals, the Shipping Federation expressed its general dissatisfaction in a letter to the Deputy Minister (Ex. 726).

"I have been directed to express the disappointment of our members in the general terms of your letter, particularly with respect to a number of items which are subject to further discussion between the shipping interests and the various St. Lawrence River Pilotage Districts. It is the view of our members that any uncertainty which may be shown by the Department can only lead to difficulties and in fact invite the same type of differences and difficulties with which we were plagued continuously during the 1959 season. If the Department feels it is unable to take a definite and firm stand on these items at this time, it is urged respectfully that any further discussions or negotiations with the pilots should be deferred until the close of the 1960 navigation season, which is in line with the policy previously advocated by your Department."



In this letter, the Shipping Federation renewed its 1957 proposals for the creation of a Central Pilotage Committee free from political pressure to act as adviser to the Pilotage Authority on matters relating to pilotage. If this recommendation were not implemented, the Federation requested the creation of a Commission of Inquiry to investigate pilotage problems in the St. Lawrence River area. The last paragraph of the letter explains the shipowners' point of view at that time:

"You will recall that over the past few years the Federation has, from time to time, revealed to your Department the necessity for more adequate control of pilotage in general, and that such control should be as free as possible from political pressures. The Federation is convinced that the time has now come when the Hon. Minister of Transport, as Pilotage Authority, must bring to a halt, by one means or another, the rapidly deteriorating situation due to the apparent refusal of pilots to accept any form of proper control, as evidenced by their continuing determination to demand unreasonable rewards and conditions."

The shipowners were convinced that their point of view was shared by the officials in the Department of Transport and that it had not prevailed only because the pilots had had political pressure brought to bear on the Minister who had the final responsibility for decisions. It was apparently for this reason that the Shipping Federation decided to appeal to public opinion.

In the spring of 1960, the Shipping Federation published and distributed a pamphlet (p. 349 and Brief 27, Vol. II, App. (49)) urging the creation without delay of a Royal Commission of Inquiry to inquire into the pilotage problems in the St. Lawrence region and stating the facts and arguments they had in support. Basing their argument on the statistics furnished by the Department of Transport, the Federation complained against the exaggeratedly high level to which the pilots' income had been allowed to rise, and denounced the procedure being followed to establish the rates, i.e., by allowing pilots to participate in negotiations on tariff charges rather than limiting their intervention to fixing the amount of the annual remuneration they should receive, i.e., their target income or salary. They further contended that the pilotage service was organized in such a way that a small group of pilots could, by lobbying and personal contact with their Members of Parliament, bring undue political pressure to bear upon the Pilotage Authority, the Minister of Transport.

The publication of this pamphlet generated a spirited reaction by the pilots: they distributed *communiqués* to the press presenting their own point of view and accusing the Shipping Federation of distorting the facts.

It was in this tense atmosphere that negotiations were resumed in 1960. The pilots became extremely sensitive to all references to their earnings. In a new brief to the Pilotage Authority, the Pilots' Federation attacked the

methods used by the Department of Transport to establish pilotage statistics and set out six problems to which they demanded solutions:

- (i) foreign pilots piloting in Canadian waters;
- (ii) shipping representatives on the Board of Examiners;
- (iii) failure by the Pilotage Authority to readjust the tariff to compensate for the loss of unofficial revenue by the Quebec pilots following the abolition of the special pilot system and the adoption of the grade system;
- (iv) inadequacy of certain moveage rates in the harbour of Montreal;
- (v) undue delays in the collection of pilotage dues;
- (vi) delays by the Pilotage Authority in settling certain pilotage problems.

When the Shipping Federation was given a copy of the brief it is said to have been informed by the pilots' representative that they had told the Deputy Minister they would resort to strike action if their demands were not satisfied within a reasonable period of two weeks.

The Pilotage Authority did not yield to the pilots' pressure and, in a letter dated September 9, 1960, to the Pilots' Federation, the Minister of Transport reaffirmed the previous decisions taken on these various points, except for moveage rates in the harbour of Montreal which would be considered as soon as the statistics for 1960 became available.

The pilots, however, continued their efforts and succeeded in obtaining satisfaction for most of their demands when a new Minister of Transport was appointed, thereby averting the strike. For details, vide pp. 345-356.

For the purpose of the meetings to be held in the winter of 1961 when the tariff in the St. Lawrence River Districts were to be studied, the Shipping Federation, on December 14, 1960, submitted a brief to the Pilotage Authority (Ex. 688) which contained five basic recommendations:

- “(1) THAT the pilots in the St. Lawrence River Districts be appointed civil servants, or alternatively.
- (2) THAT the Pilotage Authority allow the shipping industry and the pilots to establish by collective bargaining a mutually satisfactory level of income for the pilots in each district and that, with such level of income being then guaranteed by the Government, the tariff required to produce such guaranteed income be then negotiated between the shipping industry and the Pilotage Authority.
- (3) THAT steps be taken to abolish the Corporations grouping the various pilots in the four districts of the St. Lawrence River or, if they are to remain in existence, that the Pilotage Authority exercise a very strict supervision over them and arrange the audit and inspection of the administration and operation of pools presently under their control.
- (4) THAT the Office of the Wreck Commissioner be re-established as it was formerly constituted for the purpose of holding public enquiries into shipping casualties in the St. Lawrence River and adjoining waters.
- (5) THAT the shipping industry be allowed to be represented on the Boards of Examination and Selection of Pilots.”

Because its brief did not receive the expected support from the Pilotage Authority, the Shipping Federation, after having consulted the Dominion Marine Association and the Canadian Shipowners' Association, decided that it was preferable not to attend the winter meeting which had been convened for January 3, 1961.

The Federation was informed of the outcome of the meeting, first by a telegram from the Minister dated January 13, 1961, and by a copy of the minutes of the meeting which was forwarded later. As was to be expected, its point of view had not prevailed.

In order to press its proposals forward, the Shipping Federation decided to make representations directly to the Minister. The meeting took place February 7, 1961. The Minister did not believe in the possibility of making basic changes in the existing system but was more favourable to the question of establishing a target income and a guaranteed annual income. It was noted that in such a system there would be no place for negotiations on minor tariff items.

On March 17, 1961, at the annual convention of the Pilots' Federation, the Minister reminded the pilots that, if the provision of their services were to be subjected to unreasonable and unacceptable conditions, or if the way these services were being provided did not give satisfaction to the users, the pilots' own interests might thereby be placed in jeopardy, since it was to be expected that in the circumstances the shipowners might try to find an alternative solution.

At that time, the Pilotage Authority began to accept the principle of the Shipping Federation's proposal and in a letter dated May 24, 1961, the Minister informed the Shipping Federation that in future negotiations the pilots' representations on tariff items would no longer be considered "except where, for example, a matter of working conditions or hours of work might be involved."

In December 1961, the Federation of Pilots proposed to the Shipping Federation to hold between them preliminary meetings to the regular winter meetings. These meetings, however, did not take place, the pilots not having replied because the Shipping Federation had posed as a prerequisite that the principle of an annual guaranteed income be first accepted by them.

In February 1962, the Shipping Federation took the initiative for a meeting with the high ranking officers of the Department of Transport. At this meeting, the Deputy Minister is reported to have informed the Shipping Federation that the Department was in agreement with the target income proposal and that, following studies at the Departmental level, a \$12,000 annual income figure had been arrived at.

A meeting of all the interested parties was held in Montreal on February 26 and 27, 1962. The Pilots' Federation submitted a brief for each of the St.



Lawrence Pilotage Districts seeking further tariff revision in order to increase the gross pilotage earnings in each of them. The Department of Transport representatives urged the pilots to accept instead the principle of a guaranteed annual income but their efforts were met by strong opposition on the part of the pilots who refused to make this matter a subject for negotiations. Agreement was reached only on questions which did not conflict with the guaranteed income system; on the remaining questions, negotiations became deadlocked and the meeting broke up.

In a letter to the Deputy Minister, dated March 9, 1962, the Shipping Federation urged that steps be taken to resolve the questions of the method of calculating effective pilot statistics and the acceptance of a guaranteed annual income.

In the meantime, the Shipping Federation was trying to arrive at an agreement with the Montreal harbour pilots by direct negotiations. At a meeting held on March 8, 1962, the harbour pilots submitted that if their request for an increase in the moveage rates were granted they would in turn agree to a two-year rate freeze during which they would give consideration to the target income proposal and the amount to be guaranteed. On March 14, the Shipping Federation replied with a counter proposal: the moveage rates would be raised as requested provided the pilots gave their immediate approval to the policy of stable remuneration based on a target income proposal. These direct negotiations failed because the Pilotage Authority, without the Shipping Federation's knowledge at the time, had already approved the harbour pilots' request.

On March 20, 1962, during a private meeting with the Deputy Minister, the Pilots' Federation adopted for the other pilot groups the harbour pilots' proposal, i.e., if monetary concessions were granted, the various Pilots' Corporations would agree to a two-year freeze of rates, during which period they would study the Shipping Federation's proposal. The following day, the proposal was relayed by the Department of Transport to the Shipping Federation which was urged to meet not later than the following day with the Pilots' Federation for discussions. This the Shipping Federation declined to do since it had already arranged a meeting with the Minister for March 27.

The shipping interests' meeting with the Minister was preceded during the morning of March 27, 1962, by a meeting with the senior officers of the Department. The Shipping Federation repeated the counter proposal it had made to the harbour pilots. The Federation would agree to the financial concessions conditional on the immediate acceptance of their target income proposal. No agreement was reached. In the meeting which was to be the last one before the strike, the main questions discussed were the formula to be adopted for calculating the pilots' income and workload statistics.

There were no further developments between March 27 and April 4 when the Federation of Pilots informed the Minister by telegram that a special general meeting of all the pilots had been called for April 5 at midnight and that for the duration of the meeting no pilot would be available for duty. In other words, the pilots were going on strike (vide pp. 356-365 regarding the Quebec pilots' participation).

The following day, the Minister of Transport informed the House of Commons about the situation. He disclosed the pilots' current earnings and the extent of the increases they demanded, *inter alia*, an increase of 6 per cent for the Montreal harbour pilots and 15 per cent for Montreal river pilots.

However, the pilots' proposals—slightly modified—were to prevail. The Minister, in a letter dated April 5 addressed to the pilots' legal adviser, indicated that he was inclined to grant some pecuniary concessions in return for a rate freeze for a given period.

On April 6, in a telegram addressed to the Minister, the pilots reiterated their proposals.

On April 8, the Pilotage Authority addressed a telegram to each of the pilots ordering them back to work, but with no results.

Since the strike threatened to be of long duration, the Department of Transport together with the Shipping Federation at a meeting held on April 9 decided to take measures to restore maritime traffic despite the strike.

On April 10, the Minister of Transport informed the House of Commons that the time had come to institute a Commission of Inquiry for the purpose of conducting an inquiry in depth into pilotage. This inquiry was to be of a broader scope than that of the Shipping Federation's proposal under which it would have been limited to the problems of pilotage in the St. Lawrence Districts.

The Shipping Federation had urged the Pilotage Authority and the Department of Transport not to make any pecuniary concession to the pilots. For their part, they would do everything possible to restore and maintain maritime traffic on the River. This was done (vide p. 712). When it was realized that many vessels were proceeding without pilots, the Pilots' Federation in a counteraction despatched to all vessels at Les Escoumins, or arriving at Les Escoumins, a telegram warning them that licensed pilots were unavailable and that at that time of year, due to the absence of buoys, it would be dangerous to proceed without pilots. At the same time, it also sought the support of the members of the Canadian Merchant Service Guild by asking Canadian Masters and officers to refuse to leave their regular occupation for the purpose of navigating strike bound vessels.

On April 11, the representatives of the Pilots' Federation, together with their legal adviser, met with the Minister of Transport and submitted new and amended demands.

On April 12, the Deputy Minister of Transport met at Montreal with the Shipping Federation representatives in order to discuss with them the pilots' new proposals. He informed them that, in order to settle the strike, the Minister's intention was to grant the pilots some rate increases in return for a three-year tariff freeze and to institute a public inquiry into pilotage.

After the departure of the Deputy Minister, the Shipping Federation officers reviewed the situation and decided to inform the Minister (this was done) that their stand remained unchanged, i.e., in the circumstances no concession of any kind should be made to the pilots. However, if the Minister decided otherwise, the Shipping Federation would abide by his decision but they asked that before any action was taken the Minister's intention should first be communicated to them.

The Minister met with the Shipping Federation representatives the following day. The Shipping Federation tried, but to no avail, to dissuade the Minister from making any concession as a means of ending the strike. They argued that their technical committee was working efficiently and was able to maintain ships' movements throughout the strike-bound Districts, although more slowly than with pilots, but that the strike would not result in bringing traffic to a standstill. The terms of the settlement were listed in the following letter (Ex. 761) the Minister wrote on April 13, 1962, to Mr. Marc Lalonde, the pilots' legal adviser (translation):

"Ottawa, April 13, 1962.

Dear Mr. Lalonde:

Further to the meetings which we have had recently, I wish to inform you of the various items which I intend to propose to each of the Committees of the St. Lawrence River Pilots.

*General Items for the River:*

1. Calculation of Net Income

With regard to the calculation of net income, we are prepared to accept the formula by which each pilot will be allowed thirty days of sick leave or special leave annually, in order to arrive at the number of effective pilots.

2. Public Investigation

I will institute a public investigation with regard to pilotage in order to permit all interested parties to submit their respective problems, and in this way I hope that the problems will be solved.

3. We understand that each of the Committees concerned undertakes not to ask for changes in the Tariff of Pilotage Dues for a period of three years.

*Special Items*

*Kingston*

1. We will take the appropriate measures to ensure that the pilots of this district will no longer be required to take trips on Lake Ontario.



2. The necessary arrangements will be made to amend the basis of remuneration in this district, by replacing the present basis of remuneration by the day with a basis related to the number of trips taken, and we hope that the present disciplinary measures of this group will combat any abuses which might result therefrom.

*Cornwall*

1. My Department will develop a plan of apprenticeship for new pilots and this plan will be in force in 1963.
2. The Tariff of Pilotage Dues will be amended in such a way as to increase the tariff from \$145.00 to \$160.00.

*Montreal Harbour*

1. The Tariff of Pilotage Dues will be amended so as to increase the net income of the pilots by \$985.00 by adding to the existing scale two items for vessels of over 2,000 tons, net tonnage.

*Montreal*

1. The Tariff of Pilotage Dues will be amended in such a way as to increase the net income of each pilot by \$925.00 and consideration will be given to the fact that four pilots have been added to this district. This increase will be based equally on tonnage and draught.  
In addition, the Tariff concerning movages for intermediate ports will be amended in order that the Tariff of Movages in Quebec Harbour may be adjusted to the level of the Tariff of Movages for Quebec Harbour as described in the Quebec By-laws.
2. Four additional pilots have been allotted to this district and six Class "C" pilots have already received temporary Class "B" Licenses.

*Quebec*

We agree to withhold action on the suggestion made by Treasury Board aimed at using part of the pilotage revenue to cover certain operating costs of pilot vessels and pilotage. These costs are presently being assumed by the Government and we will discuss this question again with Treasury Board.

The Tariff amendments will come into force on April 15, 1962.

Yours very truly,  
LEON BALCER"

(5) DISPUTE BETWEEN THE MONTREAL HARBOUR PILOTS AND THE  
CORNWALL PILOTS OVER THE CHANGEOVER POINT  
AT ST. LAMBERT LOCK (EX.1331)

Much evidence regarding this dispute was brought before the Commission because it was a new problem and no settlement satisfactory to the parties involved had been reached at that time. As seen earlier (p. 627), the crux of the problem was the Pilotage Authority's inability to impose a decision due to the absence of a legally defined western limit for the Pilotage District of Montreal.

After the opening of the Seaway, the practice had been for downbound vessels to change pilots in St. Lambert lock and for upbound vessels to change wherever they stopped first, i.e., either in the lock itself, if the vessel had not to tie up at the wait wall, or, in that event, at the wait wall.

This procedure was a realistic compromise between the functions of the Cornwall pilots, which, among other things, consisted in the lockage of vessels, and the interests of shipping, which required that whenever possible vessels should not be required to stop for the sole purpose of embarking or changing pilots. This procedure was being followed and had been accepted by the Cornwall pilots. A dispute developed from 1962 when the Cornwall pilots refused to take over vessels from Montreal harbour pilots at the wait wall, thus requiring them to bring vessels inside the lock, whether or not they had tied up at the wait wall. Hence, the dispute affected only upbound vessels piloted by harbour pilots. The normal practice was followed in all cases for downbound vessels and for upbound vessels when piloted by river pilots.

The rift developed because the Cornwall pilots had occasionally not yet arrived when upbound vessels which had tied up at the wait wall had to proceed into the lock. The main cause of these delays may have been lack of waiting facilities for pilots (or pilot station) at the lock site, a situation which was later remedied. When this occurred, in order not to delay ships and Seaway operations, the Montreal pilot who had brought the ship to the wait wall was asked to do the lockage. The harbour pilots, however, required that this be treated as a second move and had the Master sign a second source form with the result that there were two move charges. This practice on the part of the harbour pilots continued until September 19, 1959, when one shipping company refused to pay the extra charge and shortly thereafter the others followed suit.

In the circumstances, it was decided by the Pilotage Authority that, since the shipowners refused to remunerate the harbour pilots for the extra service of moving an upbound vessel from the wait wall into the lock, the harbour pilots should not be required to provide this service. For the rest of the 1959 season and up to the beginning of the 1962 season the original practice was resumed, the harbour pilots quitting upbound vessels as soon as they tied up and the Cornwall pilots taking over whether they were at the wait wall or in the lock.

However, although the Cornwall pilots abided by the decision, they considered it only an interim measure and continued to press their demand that when Montreal harbour pilots were involved the changeover should take place in the lock itself. Their pressure bore results and on April 27, 1962, the Superintendent of Pilotage in Ottawa wrote to the District Supervisor reversing the previous decision and made St. Lambert lock the changeover point for the Montreal harbour pilots in all cases, whether or not upbound vessels had to tie up at the wait wall, without any extra remuneration. The pertinent part of this letter reads as follows (Transcript, Vol. 44A, p. 5099):

"Having in mind the dispute about the changing of pilots at St. Lambert Lock and the two meetings held in Montreal between the two groups concerned, we regret to see that a mutually satisfactory arrangement cannot be agreed upon. After full consideration of this problem, it is ruled that the changing of pilots

to take place in the St. Lambert Lock itself, where the Montreal harbour pilot will be replaced by the Cornwall District pilot, or vice versa . . .

You are to implement this ruling upon reception of this letter and inform the two corporations accordingly."

Very little evidence was offered as to the grounds for the attitude taken by each group of pilots and the events that prompted that reversal of instructions on the part of the Pilotage Authority. Captain F.S. Slocombe stated that this decision was taken because during the winter 1961-62 the Cornwall pilots had warned the Pilotage Authority that in future they would no longer abide by the previous decision and would no longer take charge of upbound ships with harbour pilots on board at the tie-up wall. Furthermore, the Pilotage Authorities and the Department of Transport were deeply involved in conflicts on a much larger scale that resulted at the beginning of the season in the general strike in all the St. Lawrence Districts. The Shipping Federation stated that the 1962 decision was taken despite its opposition.

In a memorandum dated May 17, 1962, it was suggested by the Superintendent of Pilotage that, at the beginning at least, rather than being a genuine dispute between the two groups of pilots, this was a concerted action to force the Pilotage Authority to grant the harbour pilots the extra remuneration they sought.

This would also explain why the Cornwall pilots did not take the same attitude toward vessels handled by the Montreal river pilots. The river pilots could not expect any pecuniary gain; first, they already had obtained a substantial increase in trip charges as well as transportation expenses when a river trip commenced or finished at St. Lambert lock (vide p. 785); second, they would be precluded from receiving a moorage charge for bringing a ship into the lock from the tie-up wall since moorages in the harbour of Montreal were beyond their competency.

The following is a pertinent excerpt from the memorandum:

"It appears that recently a number of the Harbour pilots would then demand additional payment for moorages which had not been completed without interruption. This unofficial suggestion later received attention by the pilots as a whole, with the result that the Cornwall pilots adopted the stand that henceforth they would not go below lock No. 1 so that all changes would take place in the lock itself. In the meantime, the general work stoppage took place, one of the results of which was that the Harbour pilots received an increase of approximately \$985 per pilot, with the added condition that there would be no requests for increase in tariff over the next three years in any of the St. Lawrence districts. The Montreal harbour pilots evidently realized that under these changed circumstances it would be difficult for them to carry out successfully their original intention of asking for a tariff increase and now wished to revert to the earlier basis of changing pilots at the wall below the lock. However, the Cornwall pilots were adamant in their refusal to accept the proposal to continue the old arrangement. At this juncture the Department was compelled to step in and, after several meetings, at which Captain Gendron endeavoured unsuccessfully to have these two groups agree, an official order was issued stating that the change of pilot between the Harbour and Cornwall groups would take place in the lock."



However, the harbour pilots did not consider the dispute settled and, although they followed the instructions received, they renewed their efforts to return to the original practice unless they were remunerated for the extra service. Considerable correspondence and numerous meetings between all the parties concerned took place during the 1962 navigation season and the following winter. In 1963, this problem threatened to develop into a major crisis.

This was the situation when the Commission's hearings were held. From the evidence received, the position of each of the parties involved was as shown in the following paragraphs.

The *harbour pilots* requested the re-establishment of the original practice which had been followed without interruption in so far as the Montreal river pilots were concerned. This request became the subject of one of the recommendations made by the Federation of Pilots on behalf of the harbour pilots in their brief to this Commission. However, it was apparent from the evidence adduced in support that the real objection of the harbour pilots was the lack of remuneration for what they considered an extra service, although they did not make it their recommendation because they realized its weakness both in law and in fact. There was the three-year tariff freeze and they were aware that such a proposal would be vigorously opposed in the circumstances by the shipping interests, even though it could have been argued that this was a new situation which had developed since the settlement of the strike. There was, on the other hand, the overwhelming argument in favour of the recommendation as it stood, namely, the lack of definition of the western limit of the District (vide p. 565) which made it impossible for the Pilotage Authority to enforce its April 27, 1962, order.

As for the *Cornwall pilots*, they opposed the recommendation and for other legal reasons were in a position to impose their point of view on the Pilotage Authority. Contrary to the Montreal harbour pilots, the Cornwall pilots could not successfully attack at law the validity of a Pilotage Authority's order requiring them to take over from the harbour pilots at the tie-up wall since there could be no legal argument that the tie-up wall was situated well within the Cornwall District (vide p. 871), but they had a similar legal argument regarding the changeover point at the western end of the Cornwall District where they could force an issue should the Pilotage Authority decide against them in the St. Lambert lock dispute.

For reasons of an international nature, the common boundary between the Cornwall District and the Kingston District was established at St. Regis where the international boundary between Canada and United States westward runs midstream of the St. Lawrence River. Since St. Regis is a most impractical point for changing pilots, the realistic solution was adopted of effecting the changeover at Snell lock some six miles upstream. This proce-

dure avoided the necessity for organizing and maintaining at substantial cost a pilot vessel service at St. Regis, and saved shipping the additional fee for such service as well as the accompanying delay *en route*. However, the Cornwall pilots could not be required to pilot in waters outside the District for which they hold their licence and the fact that the six-mile stretch of the channel between St. Regis and Snell lock consists of waters belonging to both Canada and the U.S.A. apparently raised insuperable objections to moving the western Cornwall limit up to Snell lock, although this arrangement had been accepted by all parties as a gentleman's agreement unenforceable at law.

The Shipping Federation, as users of pilotage services, considered itself directly concerned in the St. Lambert lock dispute. Its main apprehension was that the settlement would be at the expense of the owners, and it was opposed to any solution that would increase rates. In its brief to this Commission, the Shipping Federation suggested the following compromise:

"...A possible solution to the problem would be to allow the Montreal Harbour pilot, if there is congestion at the lock, to leave his vessel at the lock-wall where, if there are 3 or 4 vessels waiting in turn, each of the pilots remaining on board may be detained waiting from 3 to 4 hours, but to post a Montreal Harbour pilot at the lock-wall for the purpose of handling each vessel as the time comes for her to enter Lock No. 1, thus releasing the 3 or 4 other pilots who would otherwise remain on board the vessels waiting for their turn."

It is interesting to note that the Shipping Federation had no illusions about the eventual solution (*vide* Shipping Federation's brief, p. 95).

The Department of Transport was in a very delicate position in that it could not impose a solution, but had to seek a compromise which would be accepted voluntarily.

This situation continued until the harbour pilots informed the Pilotage Authority in a letter dated May 15, 1963, that from May 27 they would cease to effect movages between the wait wall and the lock, invoking the statutory provision of sec. 361 C.S.A. to support their decision.

At the request of the Deputy Minister, the harbour pilots extended the deadline by one week and agreed to attend a meeting in Ottawa with the Cornwall pilots and officials of the Department of Transport. At this meeting, a compromise suggested by the Deputy Minister was accepted by the representatives of both pilot groups, subject to ratification by the two Pilots' Corporations. The Department of Transport was to have a study made of maritime traffic between the harbour of Montreal and St. Lambert lock with the aims of improving, if possible, the method of despatching pilots and reducing the harbour pilots' waiting periods at the wait wall. On behalf of the Cornwall pilots the Department was also to study the possibility of obtaining from the American authorities authorization to effect changeovers of Cornwall and Kingston pilots at the wait wall below Snell lock. On the other hand,

changeovers at St. Lambert lock would be governed by the following arrangements:

The Montreal harbour pilots would be responsible for conducting upbound vessels as far as the first position on the tie-up wall, or into the lock itself if it was unoccupied and ready on arrival; the harbour pilots would also move ships from one position to another along the wait wall up to position no. 1; the Cornwall pilots would take over either in the lock or at wait wall position no. 1.

This compromise was ratified by the Harbour Pilots' Corporation but the Cornwall Pilots' Corporation imposed a condition the harbour pilots found unacceptable: it demanded the same arrangements for downbound vessels. In other words, the harbour pilots would be required to relieve Cornwall pilots at the upstream wait wall whenever ships did not have direct access to St. Lambert lock.

The Pilotage Authority disregarded this demand by the Cornwall pilots and decided to impose the compromise solution it had suggested. The Cornwall pilots complied since, according to the terms of the compromise, the new procedure was to be only temporary until completion of the study previously agreed upon. This study was entrusted to the firm G. T. R. Campbell & Co., Naval Architects, Marine Surveyors and Consultants. They made a study of the traffic through the Seaway approach and the existing despatching procedure. In their report, dated October 17, 1963 (Ex. 917), they made many recommendations aimed at improving co-ordination between the various pilotage services, the Harbour Master's office and the various services of the St. Lawrence Seaway. With regard to the procedure for changeover of the Cornwall and Montreal pilots, they recommended that the original procedure be reinstated with the difference, however, that the Cornwall pilots be granted extra remuneration when they were required to take over at the downstream wait wall.

The officers of the Department of Transport did not concur with this solution because they felt it would not be acceptable to the Cornwall pilots and they feared that in retaliation these pilots would refuse to respect the gentleman's agreement about the changeover at Snell lock. It is obvious also that it was not intended to grant any extra remuneration to either group of pilots. It was pointed out that it was because the workload of the harbour pilots was lighter than the Cornwall pilots that the Department originally decided to have the change made at the lock itself.

Accordingly, in a letter dated December 2, 1963, the Deputy Minister of Transport informed the Presidents of both Pilots' Corporations of his intention to maintain the system adopted in 1963. The Pilotage Authority's decision was ill-received by the Montreal harbour pilots and on December 2, 1963, they informed the Pilotage Authority that they accepted the decision because they considered it to be only temporary since the question would be subject to review by the Royal Commission on Pilotage, and they stated that



their stand had not changed. Nor did the decision satisfy the Cornwall pilots, but they did not adopt such a conciliatory attitude. They stated that they would not agree to relieve Montreal harbour pilots below St. Lambert lock.

The intransigent attitude adopted by the Cornwall pilots obliged the Department of Transport to reconsider the matter. The conclusion was reached that it was no use to try to overcome their opposition and that another solution had to be found. It was decided to return to the 1962 solution with modifications, i.e., the harbour pilots would be required to bring ships into the lock and the additional remuneration they had first sought would be granted.

It was believed that this solution would be readily acceptable by both pilot groups, except possibly the amount of extra remuneration would have to be negotiated. At first, it was thought that a small increase in the hourly detention indemnity from \$3 to \$5 for delays incurred at the lock would suffice. Since the Shipping Federation's opposition was well known, it was not consulted.

On March 17, 1964, the Pilotage Authority informed the Shipping Federation and the two pilot groups of the decision, but to the amazement of the Pilotage Authority it was rejected by the Montreal harbour pilots who asked that the previous decision continue in force. Therefore, again there was an *impasse*. It was then decided to refer the question to the Minister himself for decision. The Minister convened a meeting with representatives of both pilot groups in the hope that an amicable solution could be reached. For the purpose of the meeting, each pilot group was asked to put its case in writing. The hoped for compromise was reached at this meeting held at the beginning of April 1964. The Montreal pilots accepted the latest decision, provided the amount of the proposed extra remuneration was increased.

After negotiations with the harbour pilots, the Pilotage Authority agreed to fix the extra remuneration for bringing a ship into St. Lambert lock from a moored position at the St. Lambert wait wall at \$20 plus \$5 per hour after the first hour computed from the time the ship first secures at the wait wall, or in cases when the pilot boards the ship at the wait wall, from the time he embarks to the time of securing in the lock. This last part of the extra remuneration was not to be considered a detention indemnity. The amendments to the tariff were sanctioned by P.C. 1964-644 dated April 30, 1964, finally concluding this protracted dispute. The only solution that could be found was at the expense of shipping because the Pilotage Authority was not in a legal position to impose a decision which was not accepted beforehand by both pilot groups involved, as evidenced by the incredible number of reversals of decisions by the Pilotage Authority. The question would still be unsettled if the shipowners' representative had challenged in court the validity of the Montreal Pilotage Authority's By-law provision fixing the extra remuneration.

neration on the ground that it is ultra vires since the Montreal Pilotage Authority is not in a position to establish that St. Lambert lock is within the limits of the Montreal District.

Since the new system came into force, the shipowners have complained that occasionally they are obliged to pay double detention for the same period of time, one to the harbour pilot who is on board the upbound vessel at the wait wall waiting its turn to enter the lock, and a second to the Cornwall pilot who is there waiting to take over when the ship has entered the lock.

In a letter dated July 3, 1964, the Shipping Federation denounced this situation in the following terms:

"It appears that, on many occasions, the Montreal Harbour pilots and the Cornwall pilots are both being detained for the same period of time at the St. Lambert Lock for the same ships and the net result is double detention to the vessels. It is difficult to imagine a more clear-cut case of inefficient administration and misuse of the pilots' time."

In support of this complaint, this Commission was informed that, in the case of the steamship firm Colley Motorships Limited, on ten occasions between June 19 and July 9, 1964, its vessels had been subjected to such double charges (Ex. 1420).

In reply to the Shipping Federation, in a letter dated July 3, the Deputy Minister of Transport indicated that the problem would be again reviewed at the beginning of the 1965 season. Since then, however, the governing provisions of the Montreal District tariff have not been revised but in June 1965, the detention provision in the Cornwall By-law was amended to count after one hour instead of two as before. At first sight this would appear to compound rather than correct the situation.

The complaint of the shipowners is not legally founded since the hourly rate payable to the harbour pilot is not an indemnity charge but merely one of two components of the rate for the special moorage from the wait wall to the lock, i.e., a \$20 charge for the first hour and \$5 for each additional hour or fraction thereof. The fact that the Cornwall pilot may be entitled to a detention indemnity for the time he waits after ordered time until the ship is handed over to him in the lock for reasons beyond the ship's control is a problem that pertains to the Cornwall District and is the result of abuse in the application of the detention charge which should be corrected.

The 1964 decision has not been changed since (except for the amount of the rates as a result of the general surcharge). However, the detention charges for the Cornwall pilots have been considerably reduced through more accurate despatching.

Therefore, the situation with regard to embarking and disembarking pilots in the St. Lambert lock area is as follows (Exs. 1539 (k) and (m)):

- (i) The Montreal pilot (harbour or river) boards a downbound vessel in the lock itself, although in the case of a trip the river pilot may

not take charge until he has passed the entrance to the Seaway (pp. 628-9).

- (ii) The Montreal pilot (harbour or river) disembarks from an upbound vessel that does not take a Cornwall pilot as soon as the vessel has to tie up, even if this is at the last position along the tie-up wall, and the vessel then proceeds from there without a pilot.
- (iii) In the case of an upbound vessel taking a Cornwall pilot:

If under the direction of Montreal river pilot, the Cornwall pilot takes over when the vessel is moored for the first time, even if this is at the last position downstream from the lock. This vessel is not moved along the wait wall into the lock either by the river pilot or by a Montreal harbour pilot but by the Cornwall pilot.

If under the direction of a harbour pilot, the changeover takes place in the lock itself. If the vessel has to tie up at the wait wall, it is moved from there along the wait wall into the lock by the harbour pilot, who then is paid the above-mentioned remuneration in addition to the normal movage charge.

(Re the non-availability of pilots at the proper time, vide pp. 756 and ff.)

## (6) LEAVE OF ABSENCE

### (A) *River Pilots*

#### (a) *Rules governing leave of absence*

Leave of absence for river pilots has been strictly regulated since 1961 but only a few of the rules are in the By-law. The remainder were devised by the pilots themselves and accepted by the Pilotage Authority. They are enforced by the District Supervisor in so far as despatching is concerned by their inclusion in the administrative despatching rules, and by the Pilots' Corporation by their inclusion in the Corporation by-law provisions governing the administration and sharing of the pool.

The only legislative provisions are found in sec. 17 of Part I, General District By-law, which empowers the District Supervisor to grant leave of absence when a request is made, and recognizes a pilot's right to automatic sick leave for any period of incapacitation due to sickness or injury. The only stipulations are immediate notification to the Supervisor, the production of a medical certificate if requested by the Supervisor and a second medical opinion at the Supervisor's discretion.

Up to 1961, there were no other rules and the practice that prevailed was inherited from the time of free enterprise. The only ground on which the Supervisor could deny a request for leave of absence (except in a case of incapacitation due to illness or injury) was an actual or expected shortage of pilots.



Because of the unrestricted application of the equalization of trips rule, this unregulated right to leave of absence led to abuses by some pilots. For instance, the number of absentees was often quite large during week-ends and as many as 20 per cent were absent at the same time.

Since refusal could be justified only if the efficiency of the service might be impaired because of a shortage of pilots, the By-law requirement for prior authorization was not enforced strictly, and failure to obtain such authorization was not considered a disciplinary matter. The result was that the Pilotage Authority really had no control over the availability of pilots at any time.

This state of affairs lowered the efficiency of the service and, furthermore, the wide application given to the equalization rule affected the safety of navigation because pilots were likely to be overworked catching up turns when they returned to duty after a long period of absence.

The situation became so serious that the Pilotage Authority decided to intervene. It warned the Pilots' Committee that, unless they themselves took the necessary measures to regulate leave of absence, it would have to take the initiative and impose the required rules.

In 1961, the Pilots' Corporation devised a series of rules which were approved by the Pilotage Authority. The governing features were as follows:

- (i) non-applicability of the equalization of trips to periods of absence;
- (ii) regular and periodical leave of absence with remuneration;
- (iii) automatic sick leave with full, partial or no remuneration;
- (iv) absence from pilotage duty while on Corporation business or rendering services to the pilots as a group without loss of remuneration;
- (v) loss of remuneration for absence for other reasons, whether authorized or not.

To implement these aims, an equitable system was devised based on despatching turns. The equalization of trips principle ceases to apply in case of absence and instead the pilot concerned is credited with the missed turns for despatching purposes, i.e., the average number of turns performed during his absence by the pilots who were available for duty. Full or partial remuneration can be assured by not deducting from his full share all or part of the value of these missed turns as stipulated in the pooling rules, and remuneration can be denied by debiting his share with their full value.

The one exception to these rules concerns absence over which the pilot has no control, i.e., death of his wife or a close relative, birth of a child or an order to appear before a court. In any of these circumstances the pilot retains the privilege of equalizing, provided he so requests and succeeds in making up the missed turns before the end of the next pooling fortnight.

A pilot who misses an assignment because he could not arrive in time is not considered absent if the delay was not his fault. He is placed second in turn on his arrival and retains his equalization privilege.

(b) *Regular leave of absence and annual holidays*

The Pilotage Authority has approved a system of regular leave of absence on the principle that a pilot is entitled to a certain number of days of rest during the navigation season, and an extended annual holiday to be taken after the season ends. The pilots first suggested two days per month between May 1 and November 30 but this proposal was not accepted by the Pilotage Authority on the ground that it would have caused too frequent a rotation of the pilots on strength and a modified formula more in conformity with the nature of the service was arrived at. It provided for three periods of rest between April 1 and December 31 (no regular holiday was given when the pilotage demand is generally at its peak at the beginning and end of the normal navigation season): a three-day holiday between May 1 and June 30, a five-day holiday between July 1 and August 31 and a three-day holiday between September 1 and October 31. This was later changed to three periods of six days each. These holidays are compulsory and are taken in accordance with the list drawn up by the Pilots' Corporation prior to the opening of the navigation season after consultation with its members. When drawing up the list, consideration is given to the fact that the pilots are divided into two groups and arrangements are made to have an equal number of pilots on leave in each sector at the same time. Ex. 569 (the record of regular leave granted in 1963) shows that leave is spread out as uniformly as possible. The number of pilots enjoying such rest periods was as follows: April, November and December—none; May, June, September and October—three in each sector; July and August—five in each sector.

To ensure equal treatment and avoid crediting an unequal number of turns for an equal period of leave but in different periods of pilotage activity, the number of turns to be granted has been fixed arbitrarily. Formerly, it was two turns for each three-day leave and three turns for the five-day leave period but is now three turns for each six-day leave.

Since these rules are administrative only, they do not confer any right and the pilots continue to be governed by the By-law. Therefore, they remain liable to be called to service in case of a shortage. At the time of the Commission's hearings, however, this had never occurred.

It was reported that the leave system had given excellent results since its creation in 1961, *inter alia*, it was the main contributing factor for the substantial reduction in absenteeism since that time.

The annual holiday of one and a half months is taken by half the pilots at a time during the winter months when the demand for pilotage services is lowest. The pilots in each sector are divided into equal groups, one on leave

and the other available for service. Half the pilots are on leave from December 20 to February 8 and the other half from February 8 to March 31. The list is prepared by the Corporation.

*(c) Sick leave and absence on Corporation duty*

For absence due to illness, the rules provide for granting one turn for the first day, if it is one of the first two non-consecutive days of absence other than regular leave, and the daily average for subsequent days.

As for the District of Quebec, free turns are granted to compensate for time spent by the Directors on Corporation business and by others for the benefit of the group, except when this occurs during the winter months, at the fixed rate of one turn per day or fraction of a day.

Free turns are automatically granted for absence to attend meetings of the Board of Directors or meetings of the committees of the Corporation or the Federation. In all other cases, a resolution of the Board of Directors or the Administration Committee is required.

The table on p. 795 shows the number of free turns credited since the creation of the Corporation in 1959, together with the number of pilots who received them (Ex. 782).

*(B) Harbour Pilots*

*(a) Absence and leave system*

From the legislative point of view, the only variation in leave of absence as far as the harbour pilots are concerned is provided by sec. 51 of the By-law which allows a maximum of 15 days' sick leave with remuneration per navigation season, of which not more than seven days may be granted without a medical certificate. In practice, this provision is a dead letter although it is consistent with the method of remunerating the harbour pilots prescribed in sec. 46 of the By-law, i.e., the Pilotage Authority is supposed to remunerate them through a pooling system based on availability for duty. As seen earlier, the actual situation is altogether different since they have adopted in substance the system of their colleagues, the Montreal river pilots and the Quebec pilots, and operate it through their Corporation. They have devised their own despatching and pooling rules for dealing with absences (Ex. 570). The rules affecting despatching must meet the approval of the Pilotage Authority, after which they are implemented by the District Supervisor.

As is the case with the Montreal river pilots, the equalization of assignments principle is normally limited to periods of availability for duty. Hence, for despatching purposes, a pilot is credited upon his return with the turns lost during his absence. There are two exceptions to this rule. Equalization applies:



(i) on an optional basis for turns missed during absence due to illness or injury to a maximum of 15 days per navigation season;

(ii) to absence occasioned by the death or serious illness of a member of the pilot's immediate family.

There is regular, periodic, compulsory leave which must be taken according to a list prepared at the beginning of each navigation season by the Corporation's Board of Directors. In 1963, this consisted of one day of rest per week during the months of May, June, July and November, two days per week during the months of August, September and October and none during the months of April and December, making a total of about 45 days per navigation season. This has since been changed to three days of rest per ten days. The 1969 working rules provide that a pilot will be credited with one turn per day of regular leave of absence.

The harbour pilots on regular leave remain available for duty and could be given an assignment in case of emergency, as has occasionally occurred.

With regard to absence due to illness or injury, leave is automatic and the only conditions are that the pilot is obliged to report that he will not be available, and later, if the absence lasts more than seven days, to produce a medical certificate.

As far as despatching is concerned, turns lost during such an absence will be credited only if the pilot refuses to catch up; in other words, it is left to his decision whether to equalize or not. As will be seen later, the harbour pilots' pooling rules do not carry any indemnity provision for turns lost during such absence. Hence, the opportunity is given to catch up missed turns, thereby preventing a loss of income. However, sickness group insurance coverage entitles the pilots to certain indemnities whether or not they equalize (vide p. 796).

#### (b) *Free turns*

When Directors of the Corporation are absent to attend Board meetings during the navigation season, they are granted one turn with pooling rights per day or fraction of a day of absence. This is the procedure adopted by the other Corporations. The Federation (like the other Corporations) also pays the pool the value of the turns granted to a harbour pilot who attends its board meetings provided he fills one of the offices of President, Vice-president or Secretary of the Federation. The harbour pilots' navigation season commences when the Seaway opens and terminates when it closes.

The following table shows the number of free turns granted in this way.

All absences (except free turns granted to Directors) carry a loss of income which is relative or absolute depending whether or not the pilot is permitted to equalize. There is no automatic compensation since no sharing rights are granted.

MONTREAL HARBOUR PILOTS—ADMINISTRATIVE FREE TURNS

Year	For the Corporation		For the Federation and Guild		Amount Paid by the Federation and Guild
	Aggregate Turns	Aggregate Pilots	Aggregate Turns	Aggregate Pilots	
1959.....	nil	nil	nil	nil	nil
1960.....	57	5	nil	nil	nil
1961.....	29	5	nil	nil	nil
1962.....	80	5	nil	nil	nil
1963.....	132	5	9	1	\$288.00
1964.....	104	5	1	1	33.36
1965.....	63	5	5	1	169.35
1966.....	49	5	nil	nil	nil
1967.....	47	5	nil	nil	nil
1968.....	98	5	nil	nil	nil

SOURCES: 1959-1962—Ex. 801; 1963-1968—Ex. 802; and Ex. 1539(bb).

(7) SHIPPING CASUALTIES

The recurring types of shipping casualty emphasize the inherent navigational difficulties peculiar to this section of the St. Lawrence and show clearly the basic differences between navigation in the Montreal and Quebec Districts.

There are no long stretches of open water and, hence, no mishaps attributable to the neglect or misinterpretation of radar. Instead, the pattern of accidents relates to the hazards presented by navigation in comparatively narrow, winding dredged channels complicated by cross-currents, e.g., groundings, collisions resulting from passing in confined waters or caused by bank suction, touching the bottom of the channel as a result of overloading and miscalculating the tide below Trois-Rivières.

Furthermore, casualties in the Montreal District are generally less spectacular than in the Quebec District, since, in most cases, unseaworthy ships can be beached easily and rapidly, and, in addition, the maximum permissible speed in these channels can not exceed maximum manoeuvrable speed. Another factor which may account for the smaller number of serious casualties while navigating may be that navigation in such channels requires constant alertness by the pilots to verify their position.

In recent years, there have been no serious casualties while navigating in Montreal harbour, despite the extensive cross-traffic bound to or from the Seaway. This good record is mainly due to the traffic regulations enacted by the Port Authority and the Administrative traffic control it formerly exercised and which is now undertaken by the Montreal Centre of the Marine Traffic

Control System, and also to the closing of the Lachine Canal, thereby reducing traffic in the most difficult section of the harbour, the St. Mary's Current.

In the decade 1959-1968, the harbour pilots were not involved in any casualty while navigating through the harbour, and had only minor incidents while berthing, unberthing and anchoring. The record of the river pilots in this latter type of casualty is not, however, comparable because they are not limited to the harbour of Montreal but also handle ships in the intermediate ports and in the harbour of Quebec.

The fact that a pilot is involved in a shipping casualty does not necessarily mean that the casualty is his fault. In the period 1959-1968, there were 16 major casualties (not counting the sinking of the dredge *Manseau 101* in which a pilot was only quite indirectly involved) (pp. 729-30). In five of these cases, the collision or stranding was attributed to steering failure, in one case, the collision was the direct consequence of the hazards of winter navigation (pp. 199-200); others also occurred through circumstances beyond the pilot's control (e.g., see below). Some, however, were directly due to negligence and faulty navigation by pilots.

As for the Quebec District, the detailed analysis of these accidents or shipping casualties must, for all practical purposes, be limited to major disasters and other serious cases which were officially investigated under Part VIII of the Canada Shipping Act.

Appendices I A and II A list the casualties, accidents and incidents involving river and harbour pilots which were reported as shipping casualties (as the term is defined by sec. 551 C.S.A.) for the ten-year period 1959-1968. App. I A contains a detailed analysis of the 1965 and 1966 cases; App. II A for the years 1959 and 1968. These years were selected because they represent respectively the greatest and the least number of such annual events during the past ten-year period. Reference is made to Part II, pp. 88-90, for the method used in this Report to classify so-called shipping casualties.

#### (A) *Formal Inquiries*

From 1955 to 1969 inclusive, two Formal Investigations were conducted into shipping casualties involving a Montreal pilot (Ex.1539(q)).

##### (a) *Collision between M. V. Transatlantic and M. V. Hermes April 10, 1965 (Ex. 1468)*

The collision occurred in Lake St. Peter immediately past the downstream entrance into the dredged channel from the anchorage area at the Yamachiche bend formed by the enlargement southward of the dredged channel from a width of 550 feet to 2,000 feet. *M. V. Hermes* was proceeding downstream at full manoeuvring speed and on leaving the anchorage area



swung sharply to port and collided with the upbound M. V. *Transatlantic* which she was about to meet. On impact, M. V. *Transatlantic* caught fire and, despite the fact that she was beached, became a total loss. Three members of her crew died. M. V. *Hermes* was also severely damaged. The accident was due to the fact that when the *Hermes* entered the channel her starboard side passed too close to the south bank of the dredged channel and the bank suction effect made her sheer sharply to port out of control.

The weather and visibility were good but the regular floating aids to navigation were not yet in place and there was no mark to indicate the southeast entrance to the dredged channel. The channel curves slightly to the south in the anchorage area, the centre of the channel on both sides of the bend being purportedly indicated by two sets of leading lights, the Rivière-du-Loup range lights upstream from the bend and the Pointe-du-Lac range lights downstream from the bend, all four lights erected on piers on the lake bed off the channel.

The pilot of the *Hermes* was making his first trip of the season in that area. In the absence of buoys to mark the channel, he set course by the range lights as customary and as usual, made the slight indicated alteration to the south where the lines from the two sets of range lights intersected in the Yamachiche bend. It was a known fact that the Pointe-du-Lac range lights did not show the centre of the channel because the upstream pier had been displaced a number of years before in a southeast direction. He, therefore, set course accordingly as he had always done in the past. This time, however, it brought the ship far more to the south and too close to the bank because during the winters of 1964 and 1965 the pier had been further displaced southeastward, a fact that had not been reported. On April 3 and April 9, M. V. *Manchester Commerce* and S. S. *Carinthia* had also run out of control temporarily at the same place for the same reason, but these incidents had not been brought to the attention of the other pilots.

The Court found that the prime responsibility for the accident lay with the Department of Transport, Aids to Navigation Division, for failing to verify the alignment of the range lights.

It found that no fault could be attributed to the *Transatlantic* nor to her pilot, but that "fault of contributory negligence" was to be attributed to the pilot of the *Hermes*

"who was imprudent in deciding to meet the '*Transatlantic*' in the narrow part of the channel when he could have met her in the wide part of the Yamachiche anchorage and that he was in fault:—

- a) in going full speed into the narrow part of the channel when he had to meet a ship in it;
- b) in attempting this manoeuvre when buoy 51 L that was to serve him as a guide to indicate the entrance of the narrow channel was not in place;
- c) in following the line given by the Pointe du Lac ranges in line when he knew since last year that the lower range was not in place;

- d) in proceeding at full speed when it was the first time in 1965 that he was going down this part of the River as a pilot of a ship;
- e) neglecting to use his radio telephone."

The Court, however, ordered only a three-month suspension of the pilot's licence because of his previous good record and the fact that the basic responsibility lay with the Department of Transport.

As far as the pilot of *M.V. Hermes* was concerned, this finding was reversed in appeal by the Exchequer Court, the pilot being found blameless. The Court found that there appeared from the evidence to have been no good reason why the *Hermes* coming downstream should have stopped or reduced her speed in order to meet the *Transatlantic* in the anchorage section rather than in the dredged channel. The pilot was entitled to believe that his ship would meet the *Transatlantic* in a normal manner port to port without difficulty. The speed of the *Hermes* was 15 knots which was not full speed but full manoeuvring speed. The 550-foot channel allowed ample room for navigation having regard to the size of the two ships involved and, therefore, was not a narrow channel. For a downbound ship, it was normal practice to correct the situation created by the known displacement of the lower range light by keeping the ranges in line, thus placing her on the starboard side of mid-channel; for an upbound ship, to open the ranges astern to the north, thus placing her on her side of the true mid-channel and permitting a safe port-to-port meeting. The pilot had no reason to suspect that conditions had changed since the previous navigation season because no notification of any such change had been issued by the Department of Transport and there was no evidence that any other reason for concern had come to his attention. As for his failure to use radiotelephone, the Court found that prior to the sudden and unforeseeable sheering of *M. V. Hermes* both vessels were on their own side of the channel at a safe distance from each other and there was no obligation for either one to give out signals of any kind or use radiotelephone until the sudden and unexpected sheering to port and, of course, by then it was too late to discuss the situation over the radiotelephone. The Court also analysed the meaning of the term "wrongful act" or "default" found in subsec. 568(1) C.S.A (vide Part I, pp. 393 and 394).

(b) *Sinking of dredge Manseau 101, September 30, 1966 (Ex. 1529)*

The dredge *Manseau 101* sank on September 30, 1966, three-quarters of a mile west of the Quebec Bridge while being towed to the Bridge by three tugs from Montreal and attempting to cross to the north shore to seek shelter from the high seas created by the violent winds then prevailing. Ten men aboard the dredge were drowned. A pilot was only indirectly involved in that it was claimed that the cause of the sinking had been the wash caused by the downbound *S.S. Franconia* which allegedly was then proceeding at an illegal and dangerous speed under the circumstances.

The Court found that the cause of the casualty was that the dredge was not seaworthy. Although the pilot should have and could have reduced speed while overtaking the tow, thus reducing the waves created by the *Franconia's* passage, the Court could not conclude that the ship's wash was the cause, or even a contributory cause, of the disaster. The Court did not believe that the ensuing waves had been excessive or that they could have affected the dredge in any way if it had been seaworthy and there had not been openings on the deck.

(B) *Inquiries under Sec. 579 C.S.A.*

Inquiries into pilots' conduct were also held in two connections with casualties which occurred during the same period 1955-1969 inclusive.

(a) *M. V. Beechmore, grounding, August 5, 1961 (Ex. 1332)*

On August 5, 1961, a river pilot holding a Grade C licence (then limited to vessels not exceeding 2,000 NRT) boarded *M. V. Beechmore* at 1600 at the Shell Oil berth downstream from the Longue-Pointe anchorage in the harbour of Montreal for a downbound trip. The weather was clear with no wind. The first manoeuvre was to turn the ship since she was berthed starboard side to. The pilot did not ask for tug assistance. He first attempted to turn the ship around to port off the pier with the aid of the inshore eddy but this effort was unsuccessful and the ship simply drifted broadside down the River. He then proceeded upstream to a swinging berth at the lower end of the Longue-Pointe anchorage where he tried again to turn, this time swinging the ship on the line of the Tetreaultville range lights, but in doing so the stern fouled the bank and damaged the rudder and the propeller.

This was one of the cases where the Court of Inquiry under sec. 579 C.S.A. was being used as a means to enforce discipline on a pilot. The pilot was charged with failing to exercise due care and diligence for the safe conduct of the vessel under his charge contrary to the provision of sec. 39 of the By-law of the Pilotage District of Montreal (vide Part I, pp. 412-413 and 419-423). The Court concluded that the casualty was due to the lack of *expertise* of the pilot and found it hard to understand why he should think it necessary to turn the ship on the line of the range lights when to the north of the channel he had ample room and plenty of water for a ship of this draught with no anchored vessel or moving traffic to embarrass him. Even swinging on the line of the ranges would have been safe enough with a ship of this size if the pilot had exercised sufficient care. The Court posed the question how long this pilot "should be permitted to go on practising on other peoples' expensive ships" since it was the second time he had been involved in an accident of this nature. This was not, however, deemed sufficient to justify the cancellation of his licence and it was also felt that suspension would achieve little. Therefore, the Investigating Officer suggested



that the pilot's promotion from Grade C to Grade B be delayed until the expiration of two years after the date of the casualty, which recommendation was concurred in by the Minister of Transport.

(b) *M. S. Timna, grounding, August 19, 1961 (Ex. 1470(p))*

The vessel had left Trois-Rivières August 19, 1961, drawing at least 36 feet 6 inches, and reached St. Nicholas at low water. There she grounded in the channel suffering extensive damage. The Regional Superintendent of Pilots, who had made an administrative inquiry, had recommended that a Formal Investigation be held. Instead, the Minister decided to proceed under sec. 579 C.S.A. In the notice of inquiry served on the pilot September 21, 1961, he was told, *inter alia*, that he was required to attend the inquiry and could make his defence in person or otherwise and could adduce evidence or make a statement. This is a further instance where the Court of Inquiry under sec 579 C.S.A. was used to prosecute a pilotage By-law violation, and where the two legal capacities of the Minister of Transport, as such under sec. 579 and as Pilotage Authority were confused (Part I, pp. 412-414, and 421-422).

The Court convening order dated September 20, 1961, read as follows:

"Whereas, from the allegations contained in the annexed statement of the case, there is reason to believe that ....., the holder of Pilot Licence ..... in the Pilotage District of Montreal, is from misconduct unfit to discharge his duties;

NOW THEREFORE pursuant to Section 579 of the Canada Shipping Act, Captain G. W. R. Graves, of the Department of Transport at Ottawa, is hereby appointed to hold an inquiry into the conduct of ..... on August 19th, 1961, on the River St. Lawrence in the vicinity of St. Nicholas, P.Q., when on pilotage duty on board m.s. "TIMNA" and Mr. R. R. Macgillivray, Assistant Counsel, Department of Transport, is hereby appointed to assist in the inquiry."

The statement of the case read as follows:

"It is alleged that, on Saturday, August 19th, 1961, Mr. ...., on duty as pilot on m.s. "TIMNA", on the River St. Lawrence, failed to exercise due care and diligence for the safe conduct of the vessel under his charge, in that he failed so to pilot the said vessel so as to avoid her grounding, contrary to the provisions of Section 39 of the By-law of the Pilotage District of Montreal."

The Court of Inquiry's conclusions and recommendations were as follows:

- "(1) I can form no opinion as to what the draft of the ship actually was.
- (2) There seems to be little doubt that the ship grounded on the Pte. a Basile Range just below buoys 18Q and 19Q in the channel through St. Augustin Shoal. To borrow an expression used by one witness, she ploughed her way through the channel . . .
- (3) There is 35 feet of water in the Channel at St. Augustin Shoal at chart datum. The tide tables are available to the pilot and for this particular day they indicate low water at Quebec at 1915 E.D.S.T. with a level 1.2 feet above datum . . . This is the only information that the pilot could rely on and it was readily available to him. Further, he was told that the ship would be drawing 35'7". This gave him a clearance of 7.4 inches. As it was he

assumed a draft of 36 feet with 37 feet of water, that is, 12 inches of water under the ship. This leads me to the conclusion that the allegations made in the Statement of the Case are substantiated, that pilot... did, in fact, fail to exercise due care and diligence for the safe conduct of the vessel under his charge and that he failed to pilot the "TIMNA" so as to avoid her grounding. It seems that the obvious and prudent thing to do in such a case would be to anchor and wait for more water.

- (4) My conclusions are based on a study of the transcript of evidence and the exhibits which were introduced, in conjunction with my observations of the witnesses . . .

RECOMMENDATIONS:—

- (1) I recommend that Mr. .... licence as a pilot should be suspended for a period of two months from April 1st, 1962.
- (2) With regard to costs I should say that Mr. .... was required to attend and was invited to make his defence in person or otherwise. He elected to retain counsel but this was his own choice and I do not consider that his expenses, or those of his solicitor, should be borne by the Department."

On March 29, 1962, the pilot's counsel appeared before the Court and pleaded verbally. On April 3, the Minister of Transport in his capacity as Pilotage Authority (and not as Minister of Transport under sec. 579 C.S.A.) rendered the following decision:

"CANADA SHIPPING ACT—MONTREAL PILOTAGE DISTRICT

In re: (Pilot's name)

M.S. "TIMNA"

Grounding in River St. Lawrence

19th August 1961.

ORDER OF THE PILOTAGE AUTHORITY.

Upon the report of Captain G. W. R. Graves of an inquiry conducted by him into the grounding of the M.S. "Timna", in the River St. Lawrence in the vicinity of St. Augustin Shoal on 19th August 1961 I find that the pilot of the ship, Mr. ...., a licensed pilot of the Pilotage District of Montreal, failed to exercise due care and diligence for the safe conduct of the ship, contrary to the provisions of section 39 of the By-Laws of the Pilotage District of Montreal then in force, in that he proceeded at or near the time of lowest water into a relatively shallow portion of the Ship Channel with a ship that he knew to be very deep in the water when the prudent course would have been to anchor and wait for higher water.

I direct that the Pilot's Licence in the name of ..... be suspended for one month, the suspension to commence on the date of delivery up of the said Licence to the District Supervisor of Pilots upon demand being made therefor.

In arriving at this decision I have taken into account the fact that responsibility for the grounding of the M.S. "Timna" must be shared by the Master of the ship and the fact of Pilot ..... long record of good service prior to the grounding.

Dated at Ottawa this 3rd day of April, 1962.

(Signed) Léon Balcer,

Pilotage Authority for the  
Pilotage District of Montreal."

This sentence was postponed at the request of the pilot's counsel to enable him to appeal the decision. In the meantime, the Department of Transport submitted the case to the Department of Justice for an opinion. On January 21, 1963, the Deputy Minister of Justice gave the requested opinion, the pertinent part of which reads as follows:

"... The power of the Pilotage Authority to suspend a pilot for breach of any of the Regulations contained in the By-law is subsection (2) of section 51 of the By-law. That section further provides in subsection (5) that the Superintendent shall give the pilot an opportunity to be heard personally and in writing. As far as I am aware, the Superintendent never gave the pilot in this case an opportunity to be heard, either personally or in writing, nor in fact, did he conduct any inquiry into this matter.

Although there is little doubt that the pilot had a full and ample opportunity to be heard by a person appointed under Section 579 of the *Canada Shipping Act*, that person purported, according to the transcript, to conduct a hearing as to whether there had been a breach of section 39 of the By-law. In my view, an inquiry under section 579 into the conduct of a pilot is for the purposes of enabling the Minister, not the Pilotage Authority, to discipline a pilot if he is satisfied, after the inquiry, as to any of the matters set forth in paragraphs (a), (b), (c) and (d) of subsection (5) of section 579.

I do not think that the facts constituting a breach of section 39 of the By-law would necessarily be one of the causes stipulated in subsection (5) of section 579.

In the present case, there is no suggestion that the Minister acted under this subsection or that the Minister acted at all because the suspension has been made by the Pilotage Authority and not by the Minister.

Accordingly, I do not think that the suspension is valid unless we could show that all the provisions of that By-law relating to a hearing such as subsection (5) of section 52 had been complied with and I do not think we are able to do so.

"... In respect of the request for a further inquiry under the *Canada Shipping Act*, I do not understand the purpose of any further inquiry but it seems to me that any further inquiry under the Act would not serve any useful purpose unless the Minister was prepared to discipline the pilot under the provision of the *Canada Shipping Act* and not as Pilotage Authority under the provisions of the By-law."

Since the appeal proceedings had not as yet been filed, the Minister of Transport decided to correct the procedural defect resulting from the fact that the decision had been rendered by the Pilotage Authority. Hence, one year later on April 4, 1963, the same decision was rendered but this time signed by the Minister of Transport as such. This decision was never implemented because a petition for *certiorari* was filed with the Exchequer Court. The grounds for the petition were the same as the pilot's counsel had invoked in the petition for *certiorari* which he had filed a few months earlier in the case of the alleged drunkenness while on duty of a pilot on board M. V. *Arrow* (vide pp. 385 and ff.) which was still pending.

A decision was never rendered by the Exchequer Court, a discontinuance being filed September 4, 1963. At the suggestion of the Department of Justice, the two cases were settled out of court, the Minister of Transport and Pilotage Authority having agreed not to pursue further the disciplinary proceedings in both cases (vide p. 388).



(c) Preliminary Inquiries

Between 1955 and 1967, apart from the cases which were later dealt with by a Court of Formal Investigation or by a Court of Inquiry under sec. 579, there were 20 preliminary inquiries into shipping casualties involving Montreal pilots. These casualties and their cause as established by the inquiries are (Ex. 1539(q)):

- (a) Grounding of the vessel *Vercharmian* on St. Augustin Shoal September 24, 1955; there was no failure on the part of the ship and the pilot was to blame.
- (b) Grounding near Grondines of the vessel *Troisdoc* September 25, 1955; the cause of the accident was lack of due care and diligence on the part of the pilot. His licence was suspended from November 16, 1955, to February 15, 1956.
- (c) Grounding of the vessel *Pindar* at Cap à la Roche April 19, 1956; the cause was the pilot's failure to gauge with accuracy the distance from the last known position and to make the required turn; conditions were difficult. His licence was suspended for a period of two weeks.
- (d) Grounding at Cap à la Roche of the vessel *Georgian Flame* April 19, 1956. The cause was the pilot's failure to manoeuvre the vessel with a reasonable degree of skill. His licence was suspended for one month (Ex. 1470(p)). The vessel suffered considerable damage (vide pp. 737-8).
- (e) Collision in the St. Lawrence River between the vessels *Restigouche* and *Manchester Port* November 21, 1957. It was held that the casualty was caused by lack of diligence, caution and prudence on the part of the two pilots, who had their licence suspended for a period of 14 days at the beginning of the navigation season.
- (f) Triple collision in the harbour of Quebec April 15, 1960, between the vessels *Avery C. Adams*, *Innstein* and *Roonagh Head*. The Master and the pilot of the *Avery C. Adams* were held at fault.
- (g) Grounding of the vessel *R. Bruce Angus* in the vicinity of Port St. Francis June 12, 1960. The pilot was found responsible and fined \$200.
- (h) Collision between the vessels *Belle Isle II* and *Holmside* in Lake St. Peter August 19, 1960. Both pilots were found to blame.
- (i) Grounding in the harbour of Montreal of the vessel *Weyburn* September 13, 1960. The harbour pilot was found to blame and his licence was suspended for two weeks.
- (j) Grounding of the *Manchester Fame* in the harbour of Montreal October 10, 1960, through the fault of the pilot.

- (k) Collision between the vessels *Prins Mauritz* and *Middlesex Trader* off St. Nicholas on April 6, 1965, due to adverse and unpredictable ice conditions (for full details, vide pp. 199-200).
- (l) Collision between the vessels *Eastern Shell* and *Mont Blanc* in the Cap à la Roche area September 3, 1965, with a pilot aboard the *Eastern Shell*; cause not mentioned.
- (m) Collision between the vessels *Surama* and *Sommario* in the St. Lawrence Seaway below St. Lambert lock October 22, 1966, with harbour pilots on board both ships; cause not stated.
- (n) Collision between the vessels *Protonia* and *Katerina* off Confederation Point November 9, 1966; cause not given.
- (o) Grounding of the vessel *Sylvania* in the Bécancour Bend June 15, 1967, due to the pilot's negligence.
- (p) Grounding of the vessel *Yasushima Maru* near St. Antoine wharf December 5, 1967; cause not stated.
- (q) Grounding of the vessel *Tuscany* off Cap à la Roche January 10, 1968. The charge of negligence laid against the pilot was dismissed.
- (r) Collision between the vessels *Riviera* and *Patignies* while manoeuvring at Sections 58 and 59 of Montreal harbour September 19, 1968. There was a river pilot on board the vessel *Riviera*; cause, manoeuvring difficulties.
- (s) Grounding of the vessel *Atticos* in the vicinity of Lanoraie December 4, 1968; cause not given.
- (t) Grounding of the vessel *Aristanax* December 11, 1968, abeam of the lights of Bécancour on the north side of the channel in a snow squall; cause, adverse conditions.

(D) *Cases before the Admiralty Court and the Exchequer Court*

- (a) *Collision between the tank ship Britamlube and the Prins Frederick Willen June 20, 1958, in the harbour of Montreal*

The collision occurred in mid-channel in the upper part of the harbour between the downbound *Britamlube* and the upbound *Prins Frederick Willen* which, after leaving berth 24 where she was lying starboard side to, was crossing the channel in order to proceed upstream on her port side, a local practice for that part of the harbour in order to avoid the brunt of the St. Mary's Current.

The Admiralty Court (1959 Ex. Cr. 205) found that the casualty was solely due to the negligence of the pilot of the *Prins Frederick Willen*, in that, while his view of the downbound traffic was very limited and obstructed, he attempted to cross the channel without warning and without taking reasona-

ble precautions to ensure that this manoeuvre could be made without risk of collision with downbound shipping.

The Court added "the evidence leaves no doubt in my mind that, from the moment of casting off, it was the pilot's intention to cross and proceed up river on the port side of the channel. It was felt to justify such a course on the ground that it is a common practice for vessels to meet in the channel starboard to starboard in that area. I am advised however that although this practice is followed to some extent when downbound and upbound ships are meeting, such is the case only when the meeting vessels have exchanged signals and are agreed upon such course."

The decision was partly reversed in appeal in that the Exchequer Court (1960 Ex. Cr. 274) held in appeal that the *Britamlube* pilot was also to blame. It held that his failure to obtain permission from the Montreal Harbour Master to enter a dangerous and busy channel from the Lachine Canal, by steering a mid-channel course, particularly when his view was obstructed by two ocean-going vessels secured alongside berths 18 and 19, and his failure to sound the warning signal when opposite the Marine Tower in accordance with Harbour Regulations were acts of negligence on the part of the pilot in charge of the *Britamlube* and that they contributed to the collision.

A similar collision in the same circumstances occurred December 3, 1963, when S.S. *Manchester Merchant* downbound from the upper harbour collided with M.S. *Lionel* upbound after leaving the Seaway. Following this last casualty the Harbour Traffic Regulations were amended to prohibit ships from meeting in the St. Mary's Current and requiring ships coming from the Seaway and bound for the upper harbour to proceed downstream below the St. Mary's Current before turning upstream (vide pp. 635-6).

#### (E) *Discipline*

The situation with regard to the enforcement of discipline and the re-appraisal of pilots' qualifications is the same as described for the Quebec District and, although to a lesser extent, disciplinary measures taken have been challenged before the courts, e.g., the *Timna* case. Disciplinary powers were centralized in Ottawa and the local Superintendent was deprived of the limited powers he purportedly had before, thus making him to resort in certain cases to indirect punishment by removing a pilot's name from the roster and depriving him of the privilege of equalization.

The same passive attitude of non-involvement prevailed in Montreal (Part I, p. 428) as appears from the way two complaints made on the same day against the same pilot by the Masters of two different ships were dealt with.

On July 6, 1963, at about 1735, the Master of the *Thors-Carrier* reported to the Pilotage Authority that he was refusing pilot (Blank) who



had been assigned to his ship on the ground that he was unfit to pilot on account of drunkenness. The same day, at about 2230, the same action for the same reason was taken by the Master of the *Sterno*. The first complaint was not reported to the local Supervisor because one of the despatchers took it upon himself to decide that the complaint was not founded when he saw the pilot in the pilotage office after the incident. It was only after the second complaint was received that the local Supervisor was informed. The only action taken then was to remove the pilot's name from the list. But two days later, the pilot's name was reinstated because the Supervisor felt that he had not reasonable grounds to believe that the pilot had been under the influence of liquor, a fact that could have been definitely established had measures been taken to have the pilot's condition ascertained immediately when the complaints were made. The Supervisor's interpretation of the term "reasonable grounds" (By-law subsec. 14(3)) was obviously incorrect, and a most serious presumption resulted from the receipt of two separate identical complaints lodged a few hours apart by the Masters of two ships. This could not be mere coincidence (Exs. 723 and 746).

Since the pilot's condition was not ascertained immediately (as it should have been), the only source of evidence was the testimony of the persons on board both ships but they were not readily available because the ships had sailed. If the ships had not returned, such serious complaints would have had to be dropped for lack of evidence. It took three months for the investigation to be completed. It took the form of statements obtained from the Masters and other officers who had witnessed the pilot's condition. After the complaints had been investigated, a "show cause" letter was sent to the pilot concerned. One month later his licence was suspended for the remainder of the year, i.e., from November 15 to December 31, 1963 (Ex. 1539(s)).

The enforcement of discipline on the pilot involved in the grounding of the *Georgian Flame* at Cap à la Roche April 19, 1956, is an example of the "show cause" letter procedure that was followed at that time (Part I, p. 417). The finding of the Preliminary Inquiry into this casualty (Ex. 1470(p)) was that the pilot had failed to exercise a reasonable standard of skill and that, while the circumstances were not favourable, there was no reason for the vessel being allowed to run aground. Damage to the vessel was estimated at \$250,000. The Investigating Officer had recommended a one-month suspension of the pilot's licence. It was then the policy to use a "show cause" procedure whenever feasible. On June 12, 1956, the following "show cause" letter was sent by the Director of Marine Services to the pilot concerned (translation):

"Dear Sir:

The report of the Preliminary Inquiry held into the circumstances of the grounding of the ss. GEORGIAN FLAME on April 19th, 1956, at Cap à la

Roche, when that vessel was being conducted by you, finds that this accident resulted from your failure to manoeuvre the vessel with a reasonable degree of skill.

It is appreciated that the GEORGIAN FLAME, in the fully loaded condition that she was at the time, required careful manoeuvring. However, as the vessel is an ex-Park ship, you should have been well aware of the steering capabilities.

The direct cost of repairing the damage to the vessel caused by the grounding amounted to \$250,000, and considering the above factors the Pilotage Authority takes a most serious view of the accident.

Before a final decision is made in this matter you are hereby being given an opportunity of submitting your defence, and it is requested that you do so in writing within ten days of the receipt of this letter.

Yours truly,"

On June 19, 1956, the pilot replied that the accident was unavoidable and due to a combination of circumstances which he would explain in a defence that was to follow. This he submitted June 29 through his lawyer.

The pilotage adviser to the Minister, who reviewed the case in the light of the proffered defence, arrived at the same conclusion as the Investigating Officer, and the local Superintendent of Pilots received instructions from Ottawa to have the pilot appear before him to award him a one-month suspension. This was done.

In a telegram dated August 20, 1956, the United Montreal Pilots protested and requested an official inquiry. On August 22, 1956, the Merchant Service Guild also forwarded a telegram of protest on the ground that it was most unjust for the Pilotage Authority to make use of sec. 370 C.S.A. to suspend a pilot without a formal investigation and they demanded such an inquiry under sec. 555 C.S.A. The case was formally closed when on August 27 the Deputy Minister replied that the suspension had not been imposed on account of sec. 370 but for violation by the pilot of secs. 39 and 51 of the District By-law which make it an offence for a pilot to fail to exercise the utmost care and diligence in the safe conduct of a vessel under his charge.

## 5. PILOTAGE OPERATIONS

### (1) PILOT STATIONS AND PILOT BOARDING STATIONS

Since the Montreal District is the second of a series of contiguous Districts along the St. Lawrence-Great Lakes sea route, boarding stations had to be established *en route* and at the extremities of both *de facto* divisions of the District, where a changeover of pilots is effected:

- (a) at Quebec within the joint area of both Districts of Montreal and Quebec, in the stream in the middle of the harbour off the Quebec pilot station;
- (b) off Pointe-des-Ormes, just upstream from Trois-Rivières at the *de facto* division line of the Montreal District;
- (c) in the St. Lambert lock area, west of Montreal.

In addition, a sub-boarding station exists at the two anchorages for the harbour of Montreal and the Seaway: Lanoraie and Longue-Pointe. The first enables a Master to discharge the river pilot if he expects to anchor for a considerable period; the second permits the changeover from a river pilot to a harbour pilot when an upbound vessel anchors there for any reason and for any length of time. Any movement upstream from Longue-Pointe anywhere within the harbour and up to St. Lambert lock that is not the uninterrupted continuation of a river trip is an exclusive prerogative of the harbour pilots. In addition, the river pilots will board or disembark at any berth within the District when it is the ship's destination or her point of departure, e.g., in the harbours of Quebec, Trois-Rivières, Sorel and Montreal, including Contrecoeur.

The Quebec boarding station (pp. 410 and ff.) and the St. Lambert lock boarding area (pp. 627 and ff.) have already been studied.

Three pilot stations are maintained:

- (a) The Quebec pilot station is shared with the Quebec District pilots. There the Montreal pilots purportedly come under the jurisdiction of the Quebec District Supervisor who, for this purpose, would become a delegate of the Montreal District Authority under the Montreal District Supervisor. However, there is no written delegation of powers from the Montreal Pilotage Authority, nor is there any text in the legislation giving him any power of supervision, direction or discipline over the Montreal pilots (vide pp. 212 and ff.). That part of the cost of administering the Quebec pilot station which is incurred on account of the Montreal river pilots is neither segregated nor estimated. The whole cost of the station is attributed to the Quebec District in the financial statements.
- (b) The Montreal pilot station was situated in the waterfront building of the Department of Transport on Sutherland Pier, but is now (1970) located on the 16th floor of the Board of Trade Bldg., Beaver Hall Hill. It serves as a joint pilot station for the pilots of the Montreal and Cornwall Districts, although for the latter it is not a meeting place or a reporting centre but merely the source of their despatching instructions. The station is the responsibility of the Montreal District Supervisor who, at the same time, performs the function of the Cornwall District Supervisor. The Montreal river pilots, upper section, the Montreal harbour pilots and the Cornwall pilots are despatched from this centre. The Regional Superintendent also has his office there. As of 1968, the Montreal pilotage office was administered by 22 D.O.T. officers and personnel, exclusive of the Regional Superintendent of Pilots, consisting of the District Supervisor of Pilots and one assistant, twelve despatchers, six accountants and two clerks (as compared to 15



all ranks for the Quebec station, including one District Supervisor). Formerly, the staff also comprised the personnel of the signal service whose functions are now performed by the St. Lawrence Marine Traffic Control System.

- (c) The Trois-Rivières pilot station is situated at Pointe-des-Ormes near the boarding area. It is a joint pilot station for the river pilots of both sectors. A pilot station is necessary at Pointe-des-Ormes because a changeover of pilots has been required at Trois-Rivières ever since the *de facto* division of the Montreal District.

Prior to 1949, when a pilot embarked, either at Montreal downbound or at Quebec upbound, he remained on board until the ship had reached its destination within the Montreal District or the District limit in case of a transit voyage. In 1949, it was arranged for a pilot completing a long trip to be relieved by a fresh pilot at Trois-Rivières with the changeover taking place in the harbour either at a wharf or in the stream. This system prevailed until 1957 when the requirement was extended to all pilotage trips (vide p. 617). The physical features of the channel off the wharves in Trois-Rivières harbour were not ideal for a boarding station and, when the frequency of boarding and disembarking by pilots increased, the area off Pointe-des-Ormes, 3.5 miles upstream, proved much more satisfactory. The relocation of the boarding station was brought to the attention of all interested parties by a Notice to Mariners dated May 27, 1957. Then the Department of Transport erected a wharf, completed in 1960 at a cost of \$99,762, to accommodate the pilot vessels. The Department of Transport also had a pilot station erected to accommodate the pilots and the despatching service.

The Trois-Rivières pilot station is a sub-station. It is managed under the supervision of the Montreal District Supervisor by a complement of nine: eight operations clerks under a senior clerk.

Sleeping and boarding accommodation are now readily available in the immediate vicinity of the pilot station. *Inter alia*, a hotel was erected by one of the co-owners of the launches providing pilot vessel service, mainly to accommodate their employees but the pilots as well.

Up to 1967, there was also a sub-station at Sorel which was maintained largely as part of the signal service. This sub-station was discontinued when the Marine Traffic Control System was initiated.

Requirements for pilots at other boarding places are met from these pilot stations, principally Montreal. As soon as the pilots disembark they come under the operational direction of one of the three pilot stations and must travel by land to boarding places as required, *inter alia*, Sorel, Contrecoeur, St. Lambert lock and the pilot vessel mooring bases at Lanoraie or Longue-Pointe anchorages.

### COMMENTS

The advent of reliable communications and transportation facilities has improved the pilots' working conditions by reducing considerably their waiting time at boarding or pilot stations. In the process, the internal organization of these stations has been substantially altered but sometimes at the expense of efficiency and public interest because the nature and basic requirements of the service were lost sight of.

Since pilotage is a service to shipping, the basic requirement is that pilots should be readily available where and when requests are made for service, in other words, as inbound ships arrive. Hence, it is a professional requirement that pilots be immediately available for duty unless already on assignment or on leave or enjoying a rest period between assignments. Traveling time, standby time and waiting time for ship arrivals are just as much part of the pilots' duty time as when they are actually performing pilotage (and should enter into consideration when fixing the remuneration of those pilots whose status is employees or quasi-employees (vide Part III, pp. 210-213)). The pilots were right in criticising the duty time statistics compiled by the Department of Transport which took into consideration neither waiting time nor travelling time. Failure to allow for such periods is also one of the shortcomings of their pooling system which is based merely on the number of assignments performed rather than availability for duty.

In earlier days, all the Montreal pilots available for duty had to remain in Quebec in the vicinity of the boarding area in order to be on hand when incoming ships arrived. They watched for ships to appear in the river downriver from Pointe Lévis. Since the rule for ships in transit was that the first pilot who hailed a ship was employed, the pilots often passed beyond their District limits downstream as far as the Bic pilot station to be the first to offer their services. Since that time the pilots' working conditions have improved considerably. First, controlled despatching abolished competition but, since there was still inadequate warning of expected arrivals, the pilots had to spend their rest periods doing standby duty and maintain a continuous watch from the pilot station in order to be on hand when required (aspects of this system are still found in Pilotage Districts such as St. John's (Nfld.) Part III, p. 542 and, until recently, Sydney Part III, pp. 286-287). Second, radio communications now permit expected requirements for pilots to be estimated well in advance and despatching can be planned so that only the number required need be readily available. Third, telephone communications and fast transportation have also extended the concept of a pilot station to an area where pilots can remain at home, or in temporary residence away from home, until it is time to proceed to their assignments.

However, there are limits dictated by the exigencies of the service and the circumstances of each case.

If a pilot station in its original meaning is discontinued, means should be devised to provide the pilots with the latest information on all matters affecting the safe conduct of the ships they are about to pilot. In addition to being a place where the pilots wait for the arrival of the ships to which they have been assigned, the pilot station should also provide up-to-the-minute information on all matters affecting the safety of navigation, e.g., the latest Notices to Shipping, ineffective aids to navigation, weather and traffic conditions. When pilots are allowed to proceed directly from their residence to the boarding point, they can not obtain the required information unless an adequate briefing procedure exists. It should be compulsory in the interest of safety for pilots to be fully briefed before they embark and given all the facts that may affect the safety of navigation, including ships' peculiarities (vide pp. 413 and ff.). Experience has shown that when a pilot has boarded and the ship is under way he may have neither the time nor the opportunity to obtain this information because VHF communications are not immediately available.

A regular pilot station should be maintained when, due to local circumstances, the availability of the number of pilots required to serve expected arrivals can not be otherwise guaranteed and this *a fortiori* when public interest is involved. The likelihood of delay increases with the distance the pilots have to travel by land. The closer they live to the boarding point the fewer are the chances of traffic interruptions and, furthermore, a substitute can be more readily obtained if necessary.

In this framework, greater Montreal has become an extensive pilot station within which the pilots proceed from their residences direct to various boarding points. At times, they are obliged to travel long distances through heavy traffic and in adverse weather, with the result that they can not guarantee to be punctual. Until the opening of the Seaway in 1959, the occasional non-availability of a pilot at ordered time was acceptable because it simply meant delaying a departure when there were only a few small ships in transit and most of them dispensed with pilots. In addition, the boarding point for transit traffic was the entrance to the Lachine Canal in the heart of the city. The St. Lawrence Seaway created a totally different situation. St. Lambert lock, situated at the eastern end of Victoria Bridge, has become a very active boarding point for pilots of both Montreal and Cornwall Districts. Furthermore, the consequences of the non-availability of pilots assume larger dimensions there than anywhere else in the harbour because Seaway operations are delayed and a chain reaction develops. Therefore, it is imperative for the Pilotage Authority to devise a procedure which will ensure that ships are never delayed in the St. Lambert lock area because pilots are unavailable.

The solution appears to be a regular pilot station near the lock where a number of pilots remain on standby ready to meet emergency situations. Late



reporting by pilots at the lock has been a major problem which apparently can not be resolved otherwise (vide pp. 755 and ff.).

Pilot stations are essentially matters of internal organization by those providing pilotage services and should not cause any inconvenience to shipping (vide Part II, p. 91). Therefore, it is wrong to impose extra expense on ships who embark or disembark a pilot at a given boarding area because the area in question is some distance from a pilot station, e.g., the travelling indemnity payable when a pilot embarks or disembarks in the St. Lambert lock area. Furthermore, this additional charge is discriminatory when similar charges are not made for other embarking points throughout the District, despite the fact that more land travel is involved, e.g., Sorel, Contrecoeur and Portneuf. The transportation expenses of pilots are no concern of the vessels employing them and should be reflected in the rates only indirectly, i.e., as general District expenses which are taken into consideration when the rates are established.

## (2) PILOT VESSEL SERVICE

A regular pilot vessel service exists in areas where pilots regularly board vessels under way or at anchorage, e.g., the Quebec and Pointe-des-Ormes boarding stations and the sub-boarding stations at Lanoraie and Longue-Pointe anchorages. The occasional pilotage requirements in other areas are met by other means of transportation. It is a special characteristic of the Montreal District that these regular services are not provided by the Department of Transport, the Pilotage Authority or the pilots as a group but by private entrepreneurs.

These services are organized by the shipping interests through the Shipping Federation of Canada which negotiated rates directly with the launch operators concerned. The Pilotage Authority maintains an attitude of complete non-involvement by neither issuing pilot vessel licences as required by the Act (Part I, p. 307) nor fixing tariff charges. Consequently, pilot vessel charges do not form part of pilotage dues and are not billed for or collected by the Pilotage Authority. Failure by the pilots to provide pilot vessel service makes the compulsory payment system unenforceable (vide p. 427).

The pilot vessel service at the Quebec boarding station which serves the pilots of both Districts is described on pp. 423 and ff.

*Pilot vessel service in the Trois-Rivières boarding area* is provided by Three Rivers Boatman Limited, a private company controlled by a Montreal river pilot, Robert Houde.

In addition to pilot vessel service, the company provides general passenger and merchandise transportation by water for which, including the transportation of pilots, it holds a permit from the Provincial Public Service Board which also sets the fees for all these services. The ordinance

dated Sept. 9, 1960, provided the following rates for transporting pilots: \$7 to \$10 with a special rate of \$25 from December 1 to the close of navigation and from the opening of navigation until the River is free of ice (Ex. 738).

In 1963, pilot vessel service was provided by four launches authorized to transport six, eight and twelve passengers in addition to two crew members. The largest was specially built for winter transportation but proved inadequate for this purpose. In a brief to the Pilotage Authority dated August 30, 1965, the Federation of Pilots complained, *inter alia*, about the inadequacy of the pilot vessel service at the Pointe-des-Ormes station during the winter months (Ex. 1461(n)). Subsequently, the Department of Transport undertook to transfer one of the two pilot vessels customarily in service at Les Escoumins to Trois-Rivières if Three Rivers Boatman Limited was unable to supply a satisfactory vessel for winter service (Ex. 1461(q)).

As a result of the pilots' complaints the company had a new, larger vessel constructed specially for this purpose and it proved capable during the winter.

The company provides twenty-four hour service operating from an office in a building approximately opposite the pilot station.

The company keeps close liaison with the pilot station in order to ascertain the arrival time of the vessels which will change pilots. An employee in the company's office keeps a lookout for arrivals and notifies the pilot when a ship is sighted. The company bills agents or owners directly. Tariff increases are negotiated by the company with the Shipping Federation before the approval of the Provincial Transport Commission is obtained.

*Pilot vessel service at Longue-Pointe* is provided by another private company, Montreal Boatman Limited, incorporated under the Provincial Companies Act. The company is controlled by Mr. Eugène Houde, brother of the principal shareholder of Three Rivers Boatman Limited.

The company provides water transportation for passengers and merchandise to and from ships at Longue-Pointe anchorage. Transporting pilots amounts to about one-fifth of its total operations. No service is provided during the winter months because ships do not anchor then but proceed directly to their berths.

The company holds a permit from the Provincial Transport Board and a second permit from the National Harbours Board. The National Harbours Board permit authorizes the company, *inter alia*, to use in return for a specified rent a harbour location to establish its office and erect a wharf.

In 1961, a petition by Montreal Boiler, Scaling and Ship Repairs to provide the same type of service within the harbour of Montreal was rejected by the Provincial Transport Board when, after a public hearing, the Board found that the necessity for granting a second such permit for the harbour of Montreal had not been established.

The rates are also approved by the Provincial Transport Board. In 1963, the charge for transporting pilots was \$3.50 each way, the same as for other passengers except seamen for which it was \$1. For taking lines from a ship to a wharf (one motor boat and two men) the price was \$35 (Ex. 739).

The company operates five launches, two specially employed in transporting pilots and passengers. The other three transport merchandise and perform other harbour services. Two of the pilot launches are authorized to carry 20 passengers and are equipped with radiotelephones for communication between the company's office and the launches only.

The pilots who embark at Longue-Pointe proceed by land to the company office at berth 83.

There is also regular pilot vessel service at the *Lanoraie anchorage* during the normal navigation season. It is operated by a private launch owner, Mr. E. LaPointe of Lanoraie, under a provincial permit obtained in 1962. The Lanoraie anchorage is used by ships waiting for berthing space at Contrecoeur or Tracy, and for a berth at Montreal or for entrance to the Seaway when there is no space available at Longue-Pointe. When a vessel proceeds to anchorage at Lanoraie for any reason other than emergency or weather conditions, according to the despatching rules a pilot may stay on board for a maximum of twenty-four hours but can be relieved if he so requests as soon as the vessel is anchored (Ex. 1539(n)).

### (3) TUG SERVICE

Quebec and Montreal are the only harbours where tugs are used to assist ships to berth and unberth. The berths in Sorel and Trois-Rivières are readily accessible without tugs. Tug service in Quebec has already been studied (pp. 427 and ff.).

McAllister Towing Limited operates in Montreal and also specializes in towing dead ships on the River and in the Seaway. In 1963, the firm operated ten tugboats varying from 750 to 1,440 h.p.

Most tug Masters have had extensive experience in Montreal, both towing and assisting in manoeuvring vessels. Except for the occasional complaint where often it is difficult to establish who is really at fault, the competence of the tug Masters is said to be adequate.

As a general rule, it is the Master of a ship who decides whether tugs will be needed for berthing and unberthing and, if so, how many, but he relies mainly on the advice of the pilot since he generally does not have the necessary knowledge of the key governing factor, local conditions.

By way of exception, when the safety of navigation is involved the Harbour Master has power to overrule the Master in this decision and order the number of tugs needed (National Harbours Board By-law A-1, sec. 36). This happens occasionally.



A request for tugs normally comes through the shipping agent, but sometimes directly from the pilot, particularly when additional tugs are required at the last minute. Since there is only one tugboat company in Montreal, problems like those in Saint John, N.B. do not arise (Part III, p. 101).

There are occasional disagreements about the number and size of tugs needed but, since this is a matter of *expertise*, the pilot's opinion generally prevails. On many occasions a pilot is given more tugs than he considers necessary but only because they have been ordered by the agent without consulting him. Agents know by experience the areas where a ship may need tug assistance to berth or unberth and they often take the initiative of ordering the number they feel may be needed.

Communications between pilot and tugs during manoeuvres are normally carried out through the VHF radiotelephone of Marine Traffic Control over the special frequency assigned for that purpose in the harbour of Montreal (all tugs carry this equipment). However, a system of sound signals remains necessary, partly because there are still a few river and harbour pilots who continue to prefer to transmit their orders to tugs by such signals, but mainly to provide an alternative in case of radio failure (Ex. 1539(p)).

The McAllister Towing Co. had adopted the policy of meeting with the pilots at the beginning of each navigation season in order to discuss their common problems and obtain their suggestions for improvements. The new code of signals was adopted at one of these meetings.

In the case of a tug and tow (generally as a dead ship) on a river trip, subsec. 22(2) of the District By-law authorizes the Superintendent to assign a river pilot to each vessel, in which event he must direct which of them shall be in charge. There is no similar provision for harbour pilots. Only one pilot is assigned to handle a dead ship within the harbour of Montreal. He directs manoeuvres from her bridge. This is considered a wise practice since a mariner fully acquainted with the harbour and expert in berthing and unberthing manoeuvres must always be on the bridge of a dead ship under way.

For a river trip with a dead ship, up to three tugboats may be used. The average speed is five knots. Pilots are not employed when small ships are towed. If pilots are required, two are assigned and the practice is for the two pilots to direct operations from the bridge of the leading tug taking turns relieving each other.

Dead ships are towed on the River both night and day but the pilots have occasionally asked that towing be discontinued at night for reasons of safety of navigation. The question was discussed at a meeting between the pilots and the company representatives at which a compromise was reached

whereby night towing would be discontinued whenever there was reason to believe that the safety of navigation was involved, e.g., if the dead ship had a tendency to pitch. In the five years preceding the Commission's hearings, night towing had to be interrupted only once for this reason when a tug and tow anchored for the night at Lanoraie.

The company also tows dead ships throughout the St. Lawrence Seaway. Two pilots are then employed, each one directing operations in turn. Mr. James McAllister, General Manager of McAllister Towing Limited, complained that when two pilots are assigned full dues are charged for each pilot. He recommended that the charge should be only one and a half times normal rates (vide p. 970).

#### (4) DESPATCHING PROCEDURE

##### (A) *Despatching Procedure for River Pilots*

As for the District of Quebec, river pilots are despatched through a roster system based on the equalization of turns rule. This method was originally adopted because of the special pilot system which made it impossible to operate a strict tour de rôle, and also because of the Pilotage Authority's refusal to establish and operate a pooling system as the basis of remunerating the pilots (pp. 429 and ff.).

The governing legislation is in substance the same as for the Quebec District. The Supervisor is in charge of despatching and is to assign the pilots according to their grades and the equalization of turns principle. Only one pilot is to be assigned to a ship except for winter assignments and for navigation units when two pilots are to be assigned together.

These very general principles had to be implemented through administrative decisions or rulings. At first, there were unwritten rules modified and adjusted as circumstances required but, as the number of pilots increased, it became necessary to write some of them down and post them in the pilot stations where the pilots could consult them. Around 1960, a committee of pilots was appointed by the Corporation to revise and codify these rules. The new set prepared by the committee was approved by the Pilotage Authority and later adopted by the pilots' general meeting.

The Supervisor reported that codification had excellent results in that it put an end to most of the former discussions by pilots about the correct procedure in certain cases since these points of contention were clearly defined in the rules.

These rules are often amended, generally at the request of the Pilots' Committee, to introduce improvements or meet new situations (Ex. 565). Hence, the following review is limited to generalities without entering into detail.

(a) *Lower and upper sectors*

For the provision of pilotage services (except movages within the former limits of the harbour of Montreal) the District is divided into two pilotage sectors: the upper sector from Montreal to Trois-Rivières and the lower sector from Trois-Rivières to Quebec, with the harbour of Trois-Rivières being joint territory for both sectors.

The pilots are divided into two groups, one for each sector. The number in each group is arrived at by equalizing as nearly as possible the workload per pilot in both groups. This accounts for the fact that there are a few more pilots in the upper sector. In 1969, there were 72 pilots in the upper sector as against 68 in the lower sector—a total of 140. This difference was warranted by the fact that the aggregate workload is somewhat higher in the upper sector because there are a substantial number of trips to intermediate ports while almost all trips in the lower sector are transits.

When a pilot receives his licence he is posted to the sector where there is a vacancy but, if there is a vacancy in both sectors, to the one he prefers. A pilot already holding a temporary licence is given priority of choice over a newly licensed pilot. Pilots are not normally transferred from one sector to the other but there have been a few such cases within the first year of the licence. This was considered permissible because the pilots concerned were fresh from their training which extends over the whole District.

There is a pilot station at each end of each sector which also serves the pilots of the adjacent sector or District.

The pilots are despatched through a tour de rôle system based on the equalization of trips and according to their grades.

(b) *Tour de rôle*

The pilots are despatched for one-way trips only by the station to which they have reported and when a trip is completed they become the despatching responsibility of the nearest station.

Each of the three stations makes a new list at 10:00 A.M. daily: Quebec for despatching the pilots of the lower sector upbound, Montreal for despatching the pilots of the upper sector downbound and Trois-Rivières two lists—one for despatching the pilots of the lower sector downbound and one for despatching the pilots of the upper sector upbound. These four lists are all compiled on the following basis:

- (i) Pilots who arrive at the station before midnight are listed according to the equalization of trips principle, i.e., in the order of the despatching turns to their credit, those with a lesser number being given precedence so that they are made to perform an equal number of trips for equal availability. For those with an equal number of turns, precedence is according to the time of arrival at the station.



- (ii) Pilots who arrive after midnight do not equalize and are placed at the bottom of the list in the order of their arrival. This procedure ensures that a pilot fresh from an assignment is given adequate time to rest, and also avoids disarranging the tour de rôle since a pilot low on turns would otherwise become liable to be called prior to the expiration of his 10-hour rest period and, therefore, would have the right to refuse the assignment.
- (iii) A pilot returning from leave is placed on the list as if he had arrived from an assignment at 6:00 A.M. the day of his return, with the difference, however, that he equalizes when the list is made at 10:00 A.M.

However, there are two exceptions to these rules:

- (i) The pilot first on turn at the time the new list is made remains first on the new list. The same action is taken with respect to the second on turn when the first on turn is a Class C pilot.
- (ii) A pilot transferred from one station to another does not equalize when the new list is made if he is still at the station but retains the place he had on the previous list.

(c) *Despatching turns*

The despatching system was devised to equalize the pilots' workload calculated on the number of trips performed during the same period of availability without consideration for their actual duration. Occasionally this system results in a very unequal aggregate time spent on pilotage duty and when the special pilot system existed it resulted in a much heavier workload for the tour de rôle pilots (p. 592). Cancellations and movages are not included except indirectly to operate the tour de rôle.

The distribution of the trip workload in this fashion is achieved through the device of despatching turns (p. 116). They comprise:

(i) *Performed turns*. For this purpose, each sector is divided into two zones and a transit of a sector or a trip involving the two zones of a sector counts as one turn. A trip wholly performed within one zone counts as a half turn, unless the pilot has to travel by land to embark or return to his pilot station after disembarking, in which case it counts as one turn.

(ii) *Non-performed turns*. By contrast with the faulty procedure in the Quebec District in the application of the equalization of trips principle, pilots with a lower number of turns due to absence are not given priority on the roster. To prevent this, they are credited for tour de rôle purposes with the average number of turns credited during their period of absence to the pilots who were available for duty or with the specific number of turns provided in the rules for certain special types of absence. The non-performed turns become lost turns, free turns, leave turns or indemnity turns depending whether or not they carry pooling rights.

Non-performed turns are also added each fortnight, on the 15th and final day of each month, to all those whose aggregate number of despatching turns is lower than two below the average at that moment, thereby further limiting the application of the equalization of trips principle. There are three exceptions to this rule (Ex. 773):

- A Grade C1 pilot is allowed full equalization if the cause of discrepancy was lack of ships for his grade.
- If the non-performed turns were due to an absence on account of the death of a relative, the birth of a child or a court order, the pilot concerned is authorized to equalize despite these absences, but the privilege lapses at the expiration of the following fortnight.
- Since 1965, the privilege of equalizing has been extended to pilots who were absent because they were required to appear before a board or a commission, or who were taken off the roster following a shipping casualty, provided they were not found at fault or negligent and made up their missed turns before the end of the fiscal year.

(d) *Grades*

As seen earlier, the tour de rôle is made up without consideration for pilot grades. All the pilots on the roster in each station are on the same list following the procedure described above. Attention is given to grades only when despatching is being planned.

Pilots are assigned in advance following their order on the list in the chronological order of the ETA of ships in transit and ETD of ships in port, provided the ships fall within the limits of their grade, in which case the assignment is to the next on turn of the appropriate grade. Exceptions are made to this rule for Grade A and Grade C1 pilots. Since Grade C1 is a temporary grade for newly appointed pilots from which they are promoted after a relatively short period of time and is held by only a small number of the total strength, the tour de rôle is unlikely to be greatly disturbed on their account. The despatching rules provide that when a Grade C1 pilot is first on turn, the Grade B pilot after him is also to be considered as first on turn if a substitute is required.

While Grade A pilots may be assigned to ships of all types without restriction, their limited number requires that they be despatched with care so that enough of them will be available when requests are made by ships that come exclusively within their legal competence, i.e., ships of 8,000 NRT and over. The despatching of Grade A pilots used to be further complicated by the fact that, according to the pilots' own pooling arrangements, a Grade A assignment carried a \$15 to \$25 bonus for the pilot who performed the service and this was paid him out of the pool before sharing. This bonus was abolished when the pooling arrangements for the remuneration of pilots were

modified in September, 1969. In order to distribute Grade A assignments as equitably as possible among the Grade A pilots, a supplementary tour de rôle of Grade A pilots is maintained on which they rank according to the number of Grade A assignments performed. When a Grade A pilot is required, the assignment is given to the one on the supplementary list with the lesser number of Grade A assignments, provided he is available, irrespective of the place he occupies on the main roster. If he is not available, the assignment is given to the next on turn on the supplementary list. To ensure his availability, he is reserved as long as ten hours prior to the estimated time of arrival or departure of his ship. When not so reserved, a Grade A pilot keeps his place on the main tour de rôle and is despatched as if he were Grade B.

(e) *Rest periods between trip assignments*

After each trip a pilot is entitled to a rest period of 10 hours during which he can not be required to take a fresh assignment without his consent. For trips terminating at the pilot stations in Quebec or Trois-Rivières, or at the west end of the Montreal District, i.e., in Montreal harbour and in St. Lambert lock, the rest period begins the moment the pilot disembarks. When trips terminate at an intermediate port, the period runs from the time he reaches, or ought to have reached, the pilot station to which he has to report.

While the policy is to avoid asking pilots to take fresh assignments before their rest period has been completed, there are occasional exceptions when the demand for pilotage services is high.

(f) *Change of place on the roster and miscellaneous provisions*

Some leeway is given the pilots regarding their place on the list. They are authorized to change by mutual agreement, provided both pilots involved have had their ten-hour rest period and are of the same grade and, except for Grade A pilots, the difference between their despatching turns does not exceed two.

The despatching rules also contain a number of miscellaneous provisions to cover winter despatching and situations such as when a pilot can not be reached to receive despatching orders or is late reporting. It is also a regulation offence for a pilot not to remain available or to be late for an assignment without an acceptable excuse.

(g) *Movages*

Movages do not count as turns either for despatching or pooling purposes. They have always accounted for only a small portion of the aggregate workload and even more so since the Montreal harbour pilots became a separate group. The pilots who are available for duty at a station are required to handle the occasional movages in the area.

According to the practice followed, the Montreal pilots are not required to perform movages within the harbour of Quebec, although the Montreal



tariff carries rates for movages there. These are done exclusively by the Quebec District pilots. However, a movage charge is levied instead of a partial trip charge when an upbound trip is unexpectedly interrupted before a ship has proceeded beyond the western limits of the harbour. It has been the practice in such cases to make only the lesser charge (vide p. 783). Such occurrences do not create any despatching conflict because the pilot on board was assigned to a trip and not to a movage.

The creation of the group of harbour pilots for the harbour of Montreal has relieved the river pilots of most movages in their District. The river pilots have to attend to movages at other harbours or landing places, mainly Sorel and Trois-Rivières.

When a pilot performs a movage he keeps his turn on the main tour de rôle unless his turn comes for an assignment during that time. In that event, he is placed second on turn on the main list as soon as he returns from the movage.

Movages are effected mainly by pilots who volunteered for the extra work and a compulsory assignment is made only when there is a shortage of volunteers. For this purpose, a special list for movages is kept at both the Trois-Rivières and Montreal pilot stations. Movages in the harbour of Trois-Rivières are performed as far as possible by the pilots of the lower sector. When a pilot arrives at the station and volunteers to perform movages, his name is placed at the bottom of the movage list and struck off that list when he becomes fourth in turn on the main list. A movage is given to the first pilot in turn on the movage list provided he is available at the time. When no one on the movage list is available, the fifth on turn on the main list is assigned. Approximately the same procedure is followed for a movage requiring a Grade A pilot.

#### (h) *Despatching planning*

Planning consists of ascertaining in advance, even anticipating, the extent and nature of the demand for services and making the necessary arrangements to ensure the availability of the required pilots at the right time. It is as a result of such planning that Grade A pilots are earmarked for a Grade A assignment as long as 10 hours in advance in order to ensure their availability, and that pilots are transferred from one station to another to meet an expected shortage. The sophisticated radio communications now available make accurate planning feasible, thereby reducing the pilots' waiting time to a minimum and guaranteeing that pilots with the proper qualifications will be available.

Despatching is an inherent feature of controlled pilotage. It imposes on the Authority who has assumed the direction of the service the obligation to ensure efficient operations including a guarantee of the *expertise* and physical and moral fitness of the pilots assigned (Part I, pp. 328-329). It has become

its responsibility to ensure that pilots with the right qualifications are available when and where required and that vessels which have complied with the requirement imposed upon them by legislation are not delayed by the non-availability of pilots. As seen earlier, this responsibility in the District of Montreal assumes another dimension when the non-availability of pilots at the right moment may also impair the operation of the Seaway (pp. 742 and ff.).

When all licences carried the same competency and the pilots who were available for duty were required to remain at their pilot station, planning was a comparatively simple task. The only planning required then was for sufficient pilots to be on stand by at the station to meet the expected demand, but it became more exacting when the Pilotage Authority undertook to despatch pilots from their residences, because despatching orders had to be given sufficiently in advance to give them adequate time to travel. These difficulties were increased by the introduction of the grade system which reduced the choice of pilots with the necessary competence. Successful despatching requires early, accurate information about the demand for services and their nature.

To obtain such advance information has always been a problem both from the legal (Part I, pp. 230 and ff.) and practical point of view. Re notice of requirement, vide p. 442.

As far as ascertaining pilotage requirements is concerned, the Pilotage District of Montreal is in a privileged situation because the extent and nature of all incoming traffic are known well in advance since it has first to go through one of the adjacent Districts. Most of the required information for accurate despatching planning is now available, or at least should be available, from the Marine Traffic Control System on the St. Lawrence River which liaises with the similar system on the Seaway. The system provides the Pilotage Authority with the names and destination of all incoming ships and their up-to-the-minute progress. As far as pilotage service is concerned, all that ships are asked to state is the extent of their pilotage requirements *en route*. For ships in transit at the boarding stations of Quebec and Trois-Rivières or downbound from the Seaway, it is merely a matter of internal organization and liaison for the despatching office to establish accurately enough the time of requirement. In the case of a departure, however, it must be guided by information originating from the ship; a three-hour notice of requirement is asked for but at times such notice is too short, especially for Grade A assignments. As an added measure of precaution the despatching office keeps track of all ships that have berthed within the District or are at an anchorage; with the information they obtain from the various Port Authorities and by contacting the ship's agent when necessary they are able to establish well in advance the expected time of departure of most vessels.

While pilots are to remain available, irrespective of their place on the list, it had been the practice to give them advance notice when they became first on turn, or the equivalent because of their grade. This practice has now been abandoned as no longer necessary. A pilot now can ascertain at all times his place on the tour de rôle, as well as ETA's and ETD's, through a recorded telephone message which lists all this necessary information and is brought up to date every two hours. In addition, a pilot may call the despatching office for details.

Despatching orders are given to the pilots in sufficient time to enable them to travel from their place of residence to the embarkation point. In certain cases, this lead time is specified in the despatching rules, e.g., for boarding at the Quebec station two hours before ETA or ETD, except when boarding in the inner Princess Louise Basin, in which case it would be four hours before high tide to allow the pilot to embark two hours before the gates open; for boarding at Trois-Rivières, a pilot is given his despatching order when the ship passes Tracy or Batiscan; for a ship downbound on the Seaway, one hour and a half before she is expected to reach St. Lambert lock.

Delays occasioned by the occasional non-availability of pilots at St. Lambert lock pose a serious problem. For details and comments, vide pp. 755 and ff.

Any departure from the true concept of Grade A is liable to create the same difficulties caused by the special pilot system. For comments, vide pp. 673-4.

#### *(B) Despatching Procedure for Harbour Pilots*

There is no special legislation covering the despatching of harbour pilots. The few provisions in the District By-law appear in Part I, General, and apply equally to both groups of pilots. Hence, despatching is the responsibility of the District Supervisor of Pilots who is to operate a tour de rôle based on the equalization of assignments. A strict interpretation of the By-law would indicate that subsec. 10(2) does not apply to the harbour pilots since it refers to the equalization of trips and harbour pilots perform only movages. It is possible this was the intention but, if so, it should have been clearly expressed. However, the fact that the matter is contained in the general provisions which are applicable to all pilots indicates that there was merely a fault of correlation when the special provisions regarding the newly created harbour pilots were added as Part III.

In addition, the harbour pilots have also devised their own despatching rules which have been adopted by the Pilotage Authority (Ex. 570). Because there is only one pilot station and all pilots are of equal competency since there are no grades (except on the rare occasion when for a short period of time a pilot may hold a temporary licence), the despatching rules are few and simple.



These rules provide for despatching in accordance with a roster based on the equalization of assignments. The tour de rôle is made up daily at noon with the pilots listed according to the number of turns to their credit. There are no half turns. A movage counts for a turn, irrespective of the distance involved, as does a cancellation. For despatching purposes, the aggregate number of turns comprises actual movages performed, cancellations, free turns and lost turns. If two or more pilots have the same number of despatching turns, the one with the longer period of rest is listed first. The names of the pilots performing movages when the list is made up are not entered, nor are the names of those who are unavailable for duty for any reason.

After the list is compiled, it operates until noon the following day as an ordinary tour de rôle and names are added at the bottom in chronological order as the pilots terminate their assignments. By way of exception, a pilot who is more than three turns below the average is placed second in turn as soon as he has completed a movage.

In principle, the equalization rule applies only to pilots who become low on turns during availability for duty and does not cover turns missed on account of absence. The two exceptions to the rule concern turns missed due to absence for death or illness in the pilot's immediate family, or due to his illness or injury, in which cases the privilege is optional.

The harbour pilots are not required to remain at the pilot station when they are waiting for a ship or to call there after completing an assignment. Notices of assignment are given by telephone. Lead time varies according to the point where the pilot will have to embark. Similarly, on terminating an assignment, unless the pilot reports in person at the pilot station, he must telephone stating the time he finished so that his place on the tour de rôle can be established until the list is compiled the following day at noon.

Pilots have the privilege of exchanging turns, provided the difference in turns does not exceed three between the opening of the navigation season and Nov. 30 inclusive, and one thereafter.

(C) *Failures of the Despatching System;*  
*St. Lambert Lock Problem*

Despatching, like any other system, is likely to encounter difficulties but when the causes are ascertained, measures can usually be taken to change the procedure or correct the shortcomings.

When a failure of the system has consequences for only one ship or one pilot, only reasonable measures to prevent a recurrence are necessary, but when the consequences are more far reaching, e.g., if a pilot of the correct grade, District and group is not available at St. Lambert lock at the proper time, the lock ceases to function and Seaway traffic is held up, the necessary remedial measures must be taken even if this means basic changes in the despatching system.

Study of the 21 instances complained of in 1961 and 1962 and investigated by the Regional Superintendent of Pilots reveals that the main reasons for the non-availability of pilots at St. Lambert lock were:

- (a) defective despatching planning, at times due to despatching error but mostly due to lack of accurate advance information on the demand for pilotage;
- (b) failure by the pilots to report.

Accurate advance information was lacking because there was no proper liaison between the various services connected with shipping, and the despatching office had to rely mostly on notices of requirement from vessels in order to ascertain the demand. Some vessels sent no notice or sent one too late to enable the despatching office to make the necessary arrangements for the assigned pilot to reach the boarding point in time. There were also occasions when Masters were not aware of the internal arrangements of the service and requested a pilot from the wrong group.

Various measures were taken to solve these problems. First, the contents of the notice of requirement were simplified and vessels were requested to state merely their ETA at the boarding point and destination. The despatching office then had to decide whether a harbour or a river pilot was required. Second, closer liaison was established between all services connected with shipping, such as the Seaway Traffic Control System, port Authorities and the pilotage despatching offices in the Quebec District, in order to keep track as far as possible of incoming traffic, anticipate the demand and plan despatching accordingly. Experience showed that ships' notices of requirement were often delayed on account of the failure of radio communications or because they were routed through port Authorities who failed to relay them immediately to the pilotage despatching office.

Hence, the major single improvement has been the creation of the Marine Traffic Control System which has rendered accurate advance planning of despatching possible, thereby overcoming the main cause of the non-availability of pilots. The VHF network of the system and a similar network on the Seaway provide reliable ship-to-shore communications. The traffic information the system furnishes provides the despatching office with a complete picture of maritime traffic throughout the St. Lawrence River and Seaway system, including such particulars as the name and destination of each ship and her up-to-the-minute progress through the system. Ships are no longer required to send the Pilotage Authority their ETA at the boarding station but only to state in a general notice which they send through the VHF network prior to entering the system their complete requirements for pilotage services *en route*. It then becomes the responsibility of the various pilotage officials to follow the ships' progress, determine their ETA at the various boarding stations and ensure that the proper pilots are available on arrival.

There remains, however, another source of delay which is an inherent weakness of the present despatching procedure, and, therefore, can not be overcome efficiently without making a basic change. Despatching pilots from their place of residence can be effective only if they live in the near vicinity of the boarding area: the longer the distance to be travelled by land, the greater the chance of being late reporting and the greater the consequences of failure to report.

The study made by the Regional Superintendent showed that four of the 21 cases resulted from failure by the pilot to report on time, despite correct despatching orders. In two cases, the pilots were late by a few minutes; in the third case, there was a 20 minute delay because the pilot went back to sleep after receiving his notice. The fourth case was the consequence of a dispute between the Cornwall pilots and the harbour pilots as to the place of change-over in the St. Lambert lock area. When a pilot is late reporting there is no way of knowing how late he will be or whether he will report at all, and it takes at least one hour to provide a substitute.

The Seaway Authority reported (letter dated Dec. 23, 1969, Ex. 1539(o)) that much progress has resulted since the creation of the Marine Traffic Control System. There are, however, still instances of a pilot failing to report at St. Lambert lock in good time. The problem is the same whether a Montreal pilot or a Cornwall pilot is involved. In order to minimize the extent of each delay, arrangements have been made that, as soon as it is found that a pilot has not arrived 15 minutes before ordered time, a report is immediately made by telephone to the pilotage despatching office so that alternative arrangements may be made with the least possible delay. Furthermore, each instance is later investigated by the Seaway and the Pilotage Authorities to ascertain the cause and to devise appropriate remedial measures whenever possible.

The recent situation according to Seaway statistics (Ex. 1539(o)) is as follows:

	1967	1968	1969
(a) Percentage of downbound vessels delayed due to the non-availability of pilots.....	0.878 %	0.345 %	0.534 %
(b) Percentage of upbound vessels delayed due to the non-availability of pilots.....	0.209 %	0.682 %	0.678 %
(c) Percentage of vessels indirectly affected thereby.....	0.414 %	0.395 %	0.128 %

It has been reported that during the 1969 season there were about ten occasions when Seaway operations were delayed on account of the non-availability of pilots at the proper time. It is realized that all these delays



would be avoided if the pilots were required to report at the lock a reasonable time in advance, but the Pilotage Authority is in a dilemma because it is responsible for establishing the time of requirement but this must be accurate within one hour; otherwise, either the pilot will not be ready in time or the ship will be penalized through a detention charge resulting from the Pilotage Authority's faulty estimate. The By-laws of both Montreal and Cornwall Districts stipulate a detention charge if a pilot has to wait at St. Lambert lock more than one hour after ordered time. Therefore, the despatching office tries to establish as accurately as possible the time when pilots are required to embark and issues assignment orders accordingly.

There are a number of reasons why a pilot may report late: insufficient lead time, unexpected traffic problems, late despatching as a result of delayed information from the Traffic Information Centre. A Montreal pilot is despatched as soon as a downbound ship is reported leaving Côte Ste. Catherine lock. This gives the despatching office very little leeway because the pilot must have an hour to an hour and a half to reach the lock depending on traffic conditions. If there is any delay transmitting information from the Seaway to the despatching office through the Marine Traffic Information Centre, a pilot will not be reached in time, he will arrive late and there will be an inevitable delay at the lock.

#### COMMENTS

Mr. J. R. Burnside, who spoke on behalf of the Seaway Authority, expressed their great concern about the situation and urged that there be more flexibility in the procedure for despatching pilots. As a possible remedy, he suggested that when a relieving pilot was not available the pilot already on board should be required to bring the ship out of the lock to an anchorage or berth where she would not hamper traffic. Thus Seaway operations could continue without interruption.

This would be only a partial solution since a sizeable number of downbound vessels which require pilotage services in the Montreal District enjoy an exemption in the Cornwall District and, therefore, there is no pilot on board when they reach St. Lambert lock. Furthermore, it should be adopted only as a last resort because of the consequences it entails. Apart from the question of arranging for the changeover of a pilot where no pilot vessel service exists as well as the considerable loss of time for the ship concerned, serious legal and practical problems would be created because a pilot should not be allowed to pilot in waters with which he is not familiar. It would be necessary to extend the joint area of the Montreal and Cornwall Districts to include the necessary anchorages or berths on each side of St. Lambert lock and to train the pilots to operate in these new areas.

It is considered that the correct solution is to change the despatching procedure to ensure the availability of pilots with the required qualifications.

It is clear that traffic information now available makes it feasible to determine well in advance the extent and nature of pilotage demands at St. Lambert lock. Therefore, the only likely cause of delay is the unreliability of land transportation over long distances in adverse traffic conditions. The only certain preventive is to advance ordered time so far ahead that, if the assigned pilot fails to report at the lock punctually, the despatching office will have sufficient time in hand to assign a substitute who can reach the lock before the ship's arrival. Therefore, this would mean that the assigned pilot must receive his orders at least three to three and a half hours before the ship is expected and must also report to the despatching office by telephone, or other means, upon arrival. This should be not later than at least an hour and a half prior to the scheduled arrival of the ship. In case the pilot fails to report, the despatching office would then immediately assign a new pilot who would proceed to the lock without delay and take the assignment if the first pilot does not arrive in time.

On the other hand, if the Marine Traffic Control System were unable to provide the complete traffic and pilotage information required to plan despatching accurately and well in advance, the only solution would be to establish a formal pilot station in the St. Lambert lock boarding area. A reserve of pilots of the three groups would have to be maintained at all times. The standby pilots of the Montreal river group would be Grade B except for the rare occasions when Grade A ships were expected (vide pp. 742-3).

Whatever procedure is adopted, the governing legislation and despatching procedure should be sufficiently flexible to meet emergencies, and arrangements would have to be made so that pilots of both groups of Montreal pilots were on call. That pilots qualified for their assignments should be available at St. Lambert lock when ships require them is a matter of public interest which must take precedence over any consideration of internal organization. It follows that the first available pilot who is physically fit to take an assignment should be liable to be assigned, whatever his place on the tour de rôle, notwithstanding the despatching rules and, in the case of the Montreal pilots, their legal competency. Montreal river and harbour pilots both are equally capable of piloting ships from the lock to any berth within the harbour and the harbour pilots' operational area extends to Longue-Pointe anchorage. If no Montreal harbour pilot can be available in time, the assignment should be given to any available river pilot with the proper grade. The converse also holds. If a harbour pilot has to substitute for a river pilot, he should take the ship down to Longue-Pointe anchorage and be relieved there by a river pilot for the balance of the river trip. In such a case, the ship should be required to pay only the regular pilotage dues that would have been charged if the proper pilot had been available.

The detention clauses in the Montreal and Cornwall By-laws for time spent by the pilots in the St. Lambert lock boarding area awaiting the arrival of ships should be abrogated because they are inconsistent with the nature of a detention charge and are in conflict with the pilots' prime responsibility, i.e., to guarantee their availability in the boarding area (pp. 742-3 and pp. 974-5). Until these detention clauses are abrogated, the despatching office should resolve the dilemma in which they now find themselves in favour of public interest: it is preferable for a few ships to run the risk of paying a detention charge than to interrupt lock operations.

## (5) WORKLOAD

In the Montreal District, workload has the same meaning and the same importance and has created the same problems as in the Quebec District because the services performed by the river pilots are of the same nature and the procedure for providing them is based on the same principles and governed by similar rules. The pilots' status and their mode of remuneration are also the same. Hence, the preliminary remarks on workload and statistics on pp. 445-448 apply to the Montreal pilots *mutatis mutandis*.

### (A) *River Pilots' Workload*

Over the years, the working conditions of the Montreal river pilots have been greatly improved by such measures as a more efficient despatching procedure, modern communications, better traffic information, faster ships, the abolition of the special pilot system which interfered with the tour de rôle, the *de facto* division of the District which reduced the length of river trips by half, the creation of the harbour pilots group which relieved them of movages in the harbour of Montreal and, finally, periodical strength readjustments designed to maintain the individual workload at a reasonable level. The added strain on the pilots caused by the increasing number of larger vessels which generally load to the maximum permissible channel depth is offset to a great extent by constant improvements to the channel, modern aids to navigation and up-to-date information on maritime traffic and other matters affecting the safety of navigation provided by Marine Traffic Control through its reliable, efficient VHF radiotelephone system. Nevertheless, a river assignment in the Montreal District remains very exacting and leaves the pilot no opportunity to rest even in fine, clear weather. He must pay constant attention to navigational details as he proceeds through the narrow, winding dredged channel. This is the main reason why a full transit of the District of Montreal is a much more strenuous assignment than a full transit through the District of Quebec, although both are approximately the same length, and justified dividing transit trips at Trois-Rivières (vide p. 740).



When comparing workload with traffic statistics (whether in terms of trips or turns) with those of the District of Quebec, the Montreal figures must be halved since a full transit in the Montreal District counts for two trips or two turns but only one in the Quebec District (p. 114). Winter traffic is perforce less in the Montreal District since the Seaway is closed and all vessels to and from Montreal pass through the Quebec District whose traffic also includes vessels proceeding up the Saguenay River and no further up the St. Lawrence than Quebec harbour.

Furthermore, in the Montreal District the workload of the individual pilot is more evenly distributed because of the restricted and more realistic way the equalization of trips is applied (vide p. 747).

The following table shows the average workload per year from 1955 to 1968 expressed in number of trips and movages per year pilot. A trip here means a trip (assignment) and, therefore, one trip (vessel) in winter counts for two trips (assignment), except prior to 1960 when there is no record of how many times a second pilot was on board on winter assignments because this was an unofficial, private arrangement between the pilots and the shipping interests.

#### MONTREAL RIVER PILOTS—AVERAGE TRIPS, TURNS AND MOVAGES

Year	Average per Year Pilot		
	Trips (Assignment)	Sharing Turns	Movages
1955.....	123.1	123.1	55.3
1956.....	125.4	125.3	56.4
1957.....	147.9	147.8	27.0
1958.....	152.0	151.6	6.5
1959.....	161.0	161.3	6.3
1960.....	148.7	150.2	6.2
1961.....	148.4	154.3	8.9
1962.....	147.2	144.1	7.8
1963.....	155.3	143.9	8.2
1964.....	158.7	152.0	9.8
1965.....	148.7	148.7	11.7
1966.....	150.9	155.0	12.0
1967.....	132.5	141.2	7.7
1968.....	129.6	157.2	not av.

SOURCES: Tables on pp. 618 and 620.

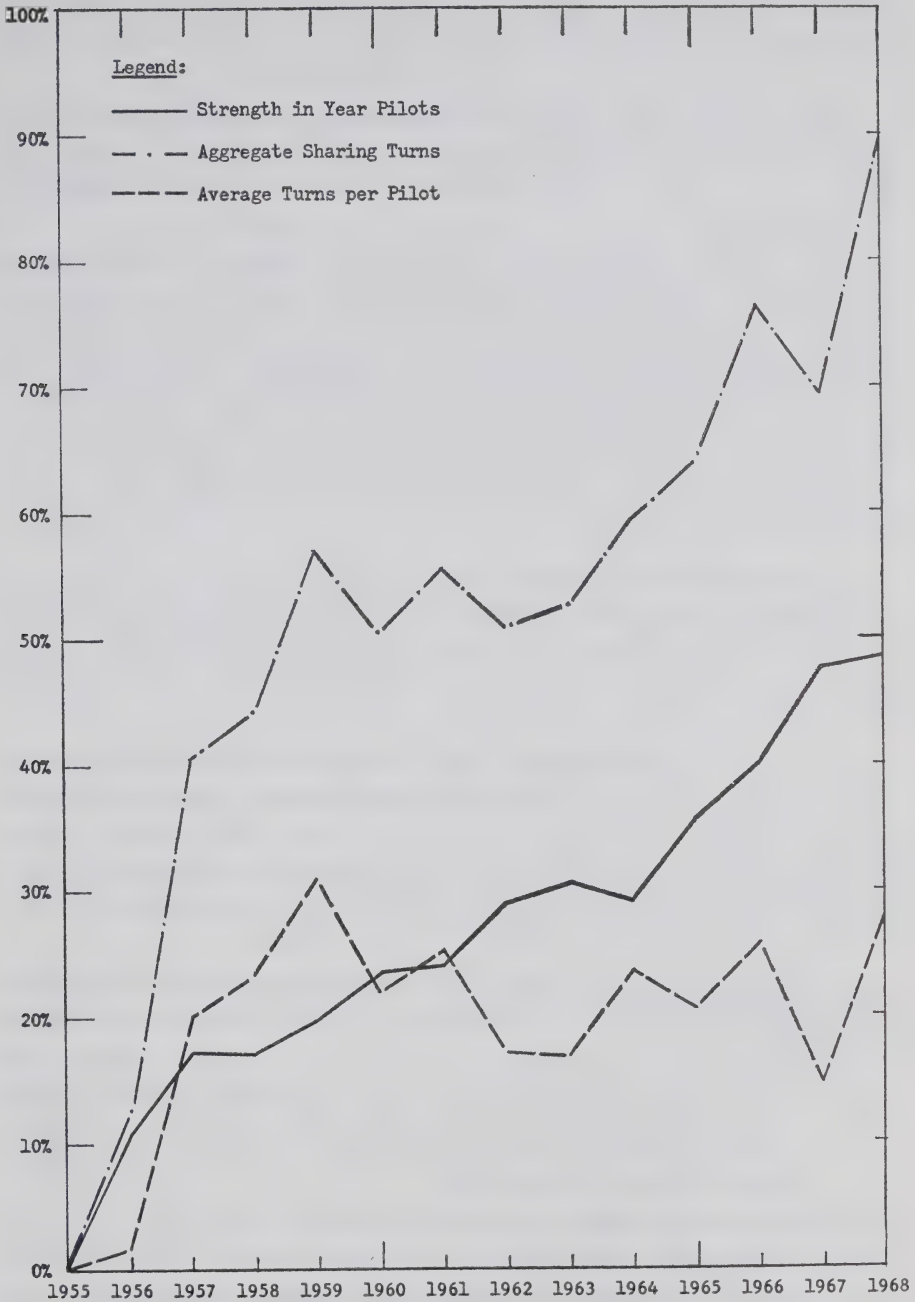
The Pilotage Authority and the pilots tried to keep the annual average workload per pilot as constant as possible by adjusting the number of pilots to the expected demand. The actual workload, however, may vary substantially because of a number of imponderables that may cause the actual demand to fluctuate, the most important of such factors in recent years being strikes in industries and services connected with shipping. Another factor relates to the readjustment process because increases in strength are effected through the issuance of permanent licences and, therefore, when a decrease is indicated it can not be effected except through normal attrition. The following table and graph show on the basis of sharing turns the result of this process from 1955 to 1968 by comparing the variation in aggregate workload, the pilots' strength in terms of "year pilots" and the average actual workload per year pilot.

MONTREAL RIVER PILOTS—  
PER CENT INCREASE SINCE 1955  
IN NUMBER OF PILOTS AND THEIR SHARING TURNS

Year	Strength in Year Pilots		Sharing Turns			
			Aggregate		Average per Year Pilot	
	Number	% Increase since 1955	Number	% Increase since 1955	Number	% Increase since 1955
1955.....	95.5	0	11,756	0	123.1	0
1956.....	105.4	10.4	13,205	12.3	125.3	1.8
1957.....	111.9	17.2	16,537	40.7	147.8	20.1
1958.....	111.8	17.1	16,950	44.2	151.6	23.2
1959.....	114.5	19.9	18,467	57.1	<u>161.3</u>	<u>31.0</u>
1960.....	117.9	23.5	17,714	50.7	150.2	22.0
1961.....	118.5	24.1	18,288	55.6	154.3	25.3
1962.....	123.2	29.0	17,749	51.0	144.1	17.1
1963.....	124.7	30.6	17,947	52.7	143.9	16.9
1964.....	123.3	29.1	18,740	59.4	152.0	23.5
1965.....	129.6	35.7	19,270	63.9	148.7	20.8
1966.....	133.7	40.0	20,726	76.3	155.0	25.9
1967.....	141.1	47.7	19,922	69.5	141.2	14.7
1968.....	<u>141.8</u>	<u>48.5</u>	<u>22,284</u>	<u>89.6</u>	157.2	27.7

SOURCES: Tables on pp. 618 and 620.

MONTREAL RIVER PILOTS—PER CENT INCREASE SINCE 1955  
IN NUMBER OF PILOTS AND THEIR SHARING TURNS



SOURCE: Table p. 762.



The process has worked fairly well and the pilots' average workload has remained fairly constant since 1957, except for the years 1967 and 1968 when the expected traffic level was not reached on account of strikes, e.g., Seaway and longshoremen, that affected shipping adversely.

The average workload per pilot is maintained at a similar level in both sectors of the District through the same process. The number of pilots in the upper sector is slightly higher because of a somewhat greater aggregate workload (p. 746).

The criterion to establish the required pilots' strength is not, however, the aggregate annual workload but the expected workload in peak periods of a certain duration, thus ensuring that there will be enough pilots available to meet the demand without delaying ships for lack of pilots or overworking the pilots and adversely affecting the safety of navigation. The graph in Appendix IC shows the variation in demand on a monthly basis for the years 1963-1968 inclusive. The effect on the increase in winter navigation is clearly noticeable. On the other hand, probably because of strikes, there is no regular pattern from year to year.

The Department of Transport's statistics show that the average duration of pilotage trips per sector, i.e., time on duty on board vessels, varied from 6.5 hrs. in 1959 to 7 hrs. in 1963. This is corroborated by the records kept by the pilots themselves and furnished to this Commission. These will be analysed later.

These D.O.T average figures convey an imprecise picture of the pilots' workload (this is true of all Districts including Montreal) since assignments of the same type vary greatly in duration and difficulty, partly due to the size and type of ships, but mostly to the prevailing weather conditions. Pilotage assignments are performed at all hours and, hence, can not be compared with professions and occupations calling for regular hours.

A survey carried out by the Pilots' Corporation (vide p. 449) about climatic conditions in 1962 (table 1-A, p. 56, Pilots' Federation brief, Ex. 671) shows:

- (i) In the upper sector, 47.2 per cent of trip assignments were night trips, 8.9 per cent on very dark nights; rain was met on 15.8 per cent of the trips, fog on 11.8 per cent, ice and snow on 2.9 per cent, wind on 14.3 per cent.
- (ii) In the lower sector, 53.4 per cent of trips were at night, 7.9 per cent on dark nights; rain was met on 16.2 per cent of the trips, fog on 12.5 per cent, ice and snow on 1.3 per cent, wind on 22.7 per cent.

While this survey discloses that adverse visibility and weather conditions are less prevalent than in the District of Quebec, their effects are more serious because of the greater difficulties attending navigation in the narrow, winding, dredged channel throughout most of the District.

Time engaged in piloting is only part of the time the pilots spend on their duties. The same survey established that in a week a Montreal pilot's time on duty was spent on the average as follows:

- (i) total time between the time a pilot was told by the despatcher to report to a ship and the time he had to report on board (ordered time): 8 hrs. 33 min. in the upper sector and 7 hrs. 44 min. in the lower sector (as compared to 16 hrs. 48 min. for a Quebec pilot);
- (ii) aggregate waiting time after ordered time before departure (time sailed): upper sector 2 hrs. 23 min.; lower sector 59 min.;
- (iii) aggregate time aboard piloting: 25 hrs. 25 min. and 29 hrs. 12 min. respectively (for the Quebec pilot: 30 hrs. 36 min.);
- (iv) travel time upon arrival from vessel to pilot station: 2 hrs. 59 min. and 56 min. the Quebec pilot: 44 min.);
- (v) total time between ordered time and arrival time at the station after completing trip: 31 hrs. 6 min. and 31 hrs. 17 min. respectively (in Quebec, 34 hrs. 22 min.);
- (vi) for pilots of both sectors, aggregate time on movages: 19 min. and compass adjustments: 10 min.;
- (vii) aggregate time travelling by land: 4 hrs. 54 min. and 3 hrs. 40 min. respectively;
- (viii) aggregate time spent at pilot station away from domicile including 10-hour rest period between assignments: 45 hrs. and 54 hrs. 4 min. respectively.

The demand for pilotage has no set pattern: the busiest and least busy months vary from year to year. For the years 1962, 1963, 1964, the aggregate number of trips performed in these months by the busiest pilot and by pilot B. Bélanger—a Grade A pilot of the upper sector, vide p. 767—are as follows. On account of the more rational method of applying the equalization of trips principle, the workload discrepancy between pilots is small in terms of trips. The busiest pilot is the one whose aggregate hours of duty in the performance of any type of pilotage service (trips, movages, compass adjustments, etc.) and including detention time is the greatest for that month. This accounts for the apparent discrepancy in the table which takes only the number of trips into account.

Year	Busiest Month	Busiest Pilot	Pilot B. Bélanger	Least Busy Month	Busiest Pilot	Pilot B. Bélanger
1962.....	July	23 trips	21 trips	Sept.	20 trips	18 trips
1963.....	Nov.	19 trips	21 trips	May	18 trips	18 trips
1964.....	July	25 trips	22 trips	Sept.	21 trips	21 trips

The difference between the incidence of transit trips in the lower and the upper sectors is quite apparent from the breakdown of trips performed by the busiest pilot. In two cases, September 1962, and July 1964, the busiest pilot was from the lower sector and all his trips were transits. By contrast, 6 of the 23 trips by the pilots of the upper sector in July 1962 were not full transits but between intermediate ports and Montreal harbour or the Seaway. In November 1963, the ratio was 7 out of 19; in May 1963, 6 out of 18; in September 1964, 5 out of 21. Pilot Bélanger's ratio in July and September 1964 was even greater: 11 out of 22, and 12 out of 21 respectively.

These figures, however, convey a very imperfect picture of how the pilots' time is spent in the discharge of their pilotage duties. They have no regular duty hours and may be required to take charge of a ship at any time of the day or night after a sufficient rest period. At the conclusion of outbound assignments they normally return to their home station on inbound assignments and, because the despatching list at the station where they disembark is governed by the same rules, they must spend approximately the same time there waiting for assignments as when at home. Since the traffic pattern is irregular and many trips in the upper sector commence or terminate at an intermediate port, the pilots there often have to travel by land to take up, or report back from, an assignment. Also for a number of reasons the duration of the same type of trip varies at times substantially.

In order to give a clear view of how a pilot's time is spent during a given month, a Grade A upper sector pilot, Bernard Bélanger, kept a complete log of his pilotage activities for the years 1961 to 1964 inclusive (Ex. 781). A detailed analysis was made of pilot Bélanger's workload for the months of June 1962, 1963 and 1964 to correspond with a similar analysis made in the District of Quebec (p. 460) (Appendix IB(2)(a)). From the graph showing the distribution of his time during these three months, the following conclusions can be drawn, *inter alia*:

- (i) The distribution of his time on a 24-hour basis was as follows:



Distribution of Pilot's Time	Comparative Analysis of Pilot Bélanger's Total Aggregate Time during the Month of June						
	1962			1963			1964
	no.	days	hrs. mins.	no.	days	hrs. mins.	no.
Trips.....	18	4	6 45	21	5	2 30	20
Movages.....	1	2	15 0	0		0	0
Total time piloting.....		4	9 0		5	2 30	5 7 30
Detentions.....	2	8	15 0	1		30	0
Cancellations.....	0	0	0 0	0		0	0
Awaiting departure after embarking.....	11	4	45 11	11	7	45 8	10
Total time on board.....		4	22 0		5	10 45	5 15 40
Travelling.....	7	11	35 0	0		0	5
Away from home between assignments*	16	9	9 30	10	13	7 20	12
At home:							
On leave.....	1	2	13 00	1		25 0	00
Between assignments*	11	12	15 55	10	10	9 30	12
Total Time.....		30	00 00		30	00 00	30 00 00

\*Including travelling time to and from assignments.

SOURCE: Ex. 781.

MONTREAL RIVER PILOTS—DURATION AND INCIDENCE OF VARIOUS TYPES OF TRIPS DURING 1962,  
1963 AND 1964 BY PILOT BERNARD BÉLANGER DURING JUNE AND BY BUSIEST PILOT  
IN BUSIEST AND LEAST BUSY MONTHS

Duration of Trips Between:	Trois-Rivières to Montreal		Montreal to Trois-Rivières		Trois-Rivières to Quebec		Quebec to Trois-Rivières		Trois-Rivières to St. Lambert		St. Lambert to Trois-Rivières		Other Trips	Grand Total
	Trips	%	Trips	%	Trips	%	Trips	%	Trips	%	Trips	%		
13-14 hours.....	—	—	—	—	—	—	—	—	1	—	—	—	—	1
12-13 ".....	1	—	—	—	—	—	—	—	—	—	1	—	—	2
11-12 ".....	—	—	—	—	—	—	—	—	—	—	1	—	—	1
10-11 ".....	—	—	—	—	—	—	—	—	1	—	1	—	—	2
9-10 hours.....	4	—	—	—	—	—	3	—	1	—	—	—	—	8
8-9 ".....	4	—	1	—	—	—	4	—	3	—	1	—	—	13
7-8 ".....	15	—	2	—	—	—	5	—	3	—	1	—	—	29
6-7 hours.....	15	—	3	—	10	—	3	—	—	—	2	—	1	34
5-6 ".....	10	—	25	—	4	—	7	—	—	—	7	—	3	56
4-5 ".....	—	—	14	—	6	—	1	—	—	—	2	—	3	26
3-4 hours.....	—	—	2	—	—	—	—	—	—	—	—	—	7	9
2-3 ".....	—	—	—	—	—	—	—	—	—	—	—	—	3	3
1-2 ".....	—	—	—	—	—	—	—	—	—	—	—	—	1	1
0-1 ".....	—	—	—	—	—	—	—	—	—	—	—	—	—	0
Total Trips.....	49	—	47	—	22	—	23	—	9	—	16	—	19	185
Summary:		%		%		%		%		%		%		%
0-4 hours.....	—	—	2	4.2	—	—	—	—	—	—	—	—	11	57.9
4-7 ".....	26	53.1	42	89.4	20	90.9	11	47.8	—	—	11	68.8	7	36.8
7-10 ".....	22	44.9	3	6.4	2	9.1	12	52.2	7	77.8	2	12.5	1	5.3
10-14 ".....	1	2.0	—	—	—	—	—	—	2	22.2	3	18.7	—	—
Total Trips.....	49	100.0	47	100.0	22	100.0	23	100.0	9	100.0	16	100.0	19	100.0
Total Trips.....														185

SOURCES: Ex. 781—Pilot Bernard Bélangier during June: 1962, 1963 and 1964.

Ex. 791—Busiest pilot during least busy months of 1962, 1963 and 1964.

Ex. 790—Busiest pilot during busiest months of 1962, 1963 and 1964.

- (ii) In June 1962, he did 14 transit trips (one of which was interrupted at Lanoraie to bunker), 4 partial transits (one of which was interrupted by anchoring off Sorel because a berth was not available) and one movage; he had to travel by land between pilot stations, once to or from an intermediate port (not counting St. Lambert) seven times. In June 1963, his 21 assignments were all full transit trips, including one trip which was not completed until June 1. There was no travel by land between stations or between intermediate ports and stations. In June 1964, he did 17 full transits and 3 partial transits but no movages; he travelled once by land between stations and four times to or from an intermediate port.
- (iii) The aggregate time shown as detention includes only idle time on board *en route* on account of stress of weather or because of unavailability of berth upon arrival; it does not include time awaiting a ship's departure after reported time because the available data do not establish ordered time.
- (iv) Between assignments, he always had more than the prescribed 10-hour period of rest.
- (v) Re irregular working hours, in June 1962, on two occasions he was piloting at midnight and on six at noon in June 1963; eight times at midnight and twice at noon; in June 1964, twice at midnight and 10 times at noon.

For the busiest pilot in the busiest months and the least busy months, a similar analysis is found in Appendix IB(3).

The duration of trips varies greatly for a number of reasons, e.g., ship's speed and availability of berths. Downbound trips are generally shorter and trips to or from St. Lambert lock take longer. The table p. 768 shows the duration and incidence of various types of trips during 1962, 1963 and 1964 by pilot Bernard Bélanger during June and by the busiest pilot in the busiest and least busy month of these years.

#### COMMENTS

It is apparent from the foregoing analysis that the Montreal river pilots are not overworked. Their workload is divided in a more orderly fashion than in the Quebec District and there is no danger that they will be overworked in the process of catching up with missed turns since the equalization of trips principle is applied realistically and the rules governing the tour de rôle apply equally to all pilot stations. Pilots who arrive from an assignment after midnight (0001) do not equalize that day but are placed at the bottom of the list in the order of their arrival.

An unnecessary amount of travelling time could be saved if the exclusive legal competency of Grade A pilots were limited only to the most difficult



assignments for which the Grade B pilots are generally considered not to have the necessary *expertise* (pp. 750-1).

(B) *Harbour Pilots' Workload*

As seen earlier, the Montreal harbour pilots were created as a group in 1957 for the sole purpose of handling movages within Montreal harbour proper, i.e., to the downstream limit at the end of Montreal Island. Since their area of operations is small, they are never obliged to remain away from home waiting for assignments. When they complete a movage, they return either to the pilot station or to their domicile, in the latter case reporting by telephone to the pilot station.

Movages take considerably less time than river trips but the harbour pilots have more assignments. This fact explains their different type of schedule and duration of regular leave which is granted on a weekly rather than a monthly basis as for the river pilots (p. 723).

All these factors make the nature and distribution of their workload and their working conditions quite different from those of the river pilots.

(a) *Aggregate workload*

In its appraisal of the aggregate workload of the harbour pilots, the Department of Transport has used the same method as for the river pilots, i.e., limiting statistics to the number of movages and the time taken to effect them.

The following table shows the average workload per year expressed in number of despatching turns and sharing turns per year pilot from 1958 to 1968.

MONTREAL HARBOUR PILOTS—AVERAGE ANNUAL WORKLOAD

Year	Average per Year Pilot	
	Despatching Turns	Sharing Turns
1958.....	421.7	421.7
1959.....	581.2	570.1
1960.....	427.8	426.5
1961.....	370.9	396.0
1962.....	363.7	365.3
1963.....	375.9	365.3
1964.....	458.2	453.6
1965.....	502.8	450.2
1966.....	444.0	429.1
1967.....	362.6	355.9
1968.....	290.9	321.1

SOURCES: Tables pp. 619 and 620.

The harbour pilots were particularly affected by the strikes which disrupted the Montreal waterfront and tied up Great Lakes shipping as is apparent from their fluctuating workload, especially the substantial decrease in the individual workload since 1966. This was partially corrected in 1969 when their number was reduced to 19 by not seeking a replacement for a pilot who retired voluntarily.

Sharing turns give a broader picture of the pilots' workload in that, while one moorage assignment corresponds to one sharing turn, they also include cancellations and free turns granted for work on behalf of the Corporation.

For the same reasons as the pilots in other groups, the harbour pilots have also contested the statistics compiled by the Department of Transport charging that they convey a false—or at least an incomplete—picture of their time on duty. However, when these figures are considered strictly for what they represent, they give valuable and reliable information and a reasonably complete picture can be obtained by making allowance for the remaining factors: travelling time, waiting time before departure and, to a much lesser extent, time at home awaiting assignments.

Appendix II C(1) is a graph which shows the monthly fluctuation in the aggregate demand for the period 1963-1968. There is very little work for the harbour pilots during the winter months because, on one hand, the Seaway is closed and, on the other, river traffic is relatively small, there is no congestion in the harbour and ships are brought directly to, and conducted from, their berths by the river pilots.

According to the Department of Transport's effective pilots statistics, the average time on duty per day for an effective pilot for the years 1960 to 1964 was respectively 3.2 hrs., 2.8 hrs., 2.6 hrs., 2.8 hrs. and 3.3 hrs. The survey made by the Federation of St. Lawrence River Pilots in 1962 corroborates these averages and adds certain details. Their findings are stated in weekly aggregate averages as follows:

- (i) Aggregate time between notice of assignment and order time—12 hrs. 46 min.
- (ii) Aggregate time between ordered time and departure time—7 hrs. 8 min.
- (iii) Aggregate pilotage time, i.e., between departure time and disembarking time—12 hrs. 38 min.
- (iv) Travelling time by land—not stated.

A pilot's travelling time by land to reach a ship from his residence or return to his residence after his assignment varies substantially according to the location of his residence, his method of transportation and traffic conditions. For example, pilot Lavoie, who resides in the north of the city, stated

that on the average it takes him two hours and a half travelling time to reach a ship from his residence and return after an assignment.

The Federation's survey also indicates that more than two-thirds of the movages are effected during daylight hours. Out of the 1,554 movages covered by the survey, only 469 (30.3 per cent) were effected at night (Federation of St. Lawrence River Pilots' brief, table 1-A, p. 56, Ex. 671).

Averages can not convey a realistic picture unless work is uniformly spread out during the period over which the averages are taken and working hours are constant throughout. This is certainly not the case with pilotage. In order to be in a position to appreciate more fully the nature and the extent of a pilot's workload and the irregularity of his working hours, actual cases must be studied over a period of time. As far as the harbour pilots are concerned these cases are representative of the group on account of the strict application of the equalization of assignments principle and the fact that the work week is the same for all pilots because of their leave system.

Like the river pilots, the harbour pilots have no set demand for their services but find a variation from year to year and from month to month, largely due to unpredictable factors. For the years 1962, 1963 and 1964 the following tables summarize the most pertinent information drawn from the workload of the busiest pilot during the busiest month and least busy month of the years 1962, 1963 and 1964 (Exs. 788 and 789). An upbound assignment is counted as one movage, whether or not it terminates in a move along the wait wall, and the aggregate time of movages for upbound assignments includes the full period of the assignment, i.e., from the time the ship departs until the harbour pilot leaves the ship in the lock, including any time taken for moving the ship along the wait wall. The averages at the end of the table are self-explanatory.

(b) *Pilot J. J. Ménard's workload*

Pilot J. J. Ménard gave details of his pilotage time for the months of May—September 1964. The following table gives a summary of similar pertinent information to that drawn from the data furnished by the busiest pilots (Table p. 773).

In order to give a better picture of overall duty time and the irregularity of assignments and working hours, Appendix II B(1) is a graph showing the actual distribution of the pilotage time of pilot Ménard for the month of June 1964. Travelling time from or to his residence to or from assignments is not shown. Unlike many other pilots, the Montreal harbour pilots are not concerned with travelling time: since there is only one pilot station, there is no travelling between stations; since their work is confined to the port



MONTREAL HARBOUR PILOTS—SUMMARY OF WORKLOAD TIME OF BUSIEST PILOT  
DURING BUSIEST AND LEAST BUSY MONTHS IN 1962, 1963 AND 1964

Year Month	Moyage Time Piloted		Time Waited after Boarding		Cancellation Time Lost		Total Assignment Time on Duty	
	No.	hrs. mins.	hrs. mins.	No.	hrs. mins.	No.	hrs. mins.	
<i>Busiest Month</i>								
1962 October.....	52	73 20	62 10	0	0 00	52	135 30	
1963 November.....	51	61 00	76 55	3	7 10	54	145 05	
1964 November.....	46	60 25	84 55	3	9 10	49	154 30	
<i>Least Busy Month</i>								
1962 May.....	42	49 50	61 50	2	1 05	44	112 45	
1963 August.....	41	52 40	32 50	2	2 10	43	87 50	
1964 August.....	50	65 20	63 10	1	0 30	51	129 00	
							Hrs.	Mins.
<i>Average for both busiest and least busy months combined</i>								
Average time piloted per moyage.....							1	17
Average time waited after boarding per moyage.....							1	21
Average duration of a moyage.....							2	38
Average time spent on a cancellation.....							1	41

SOURCES: Exs. 788 and 789.

MONTREAL HARBOUR PILOTS—SUMMARY OF WORKLOAD TIME OF PILOT J. JULIEN MENARD—  
MAY—SEPTEMBER 1964

Month	Morage Time Piloted										*Cancel- lation Time Lost; and Time Waited after Boarding	Total Assignment Time on Duty						
	Time Piloted in Upbound Movages to St. Lambert Lock Interrupted at Wait Wall					Time Piloted of All Other Movages		Total Morage Time Piloted		hrs.		mins.	No.	hrs.	mins.			
	No.	to wait wall		to lock wall		total		No.	hrs.							mins.		
		hrs.	mins.	hrs.	mins.	hrs.	mins.											
May.....	10	8	40	17	50	26	30	41	55	30	51	82	00	44	45*	52	126	45
June.....	9	12	25	12	25	24	50	39	51	40	48	76	30	39	30	48	116	00
July.....	11	10	00	35	35	45	35	47	60	10	58	105	45	54	45	58	160	30
August.....	7	8	30	10	55	19	25	29	31	05	36	51	00	33	00	36	84	00
September.....	8	8	30	13	35	22	05	38	50	15	46	72	20	36	05	46	108	25
Average														Hrs. Mins.				
Average total morage time piloted per morage.....														1 37				
Average time waited after boarding per morage.....														52				
Average duration of a morage.....														2 29				
Average time spent on a cancellation.....														30				

\*Only one cancellation in May involving thirty minutes; remainder of time waited after boarding.  
SOURCE: Ex. 1416.

of Montreal, there is no travelling by land from a pilot station to intermediate ports. The distance to be travelled by land varies greatly depending how far the pilots live from the harbour. Therefore, while this factor has to be taken into consideration, lack of complete information prevents accurate statistics being compiled and the time taken by any one pilot can not be quoted as representative.

From this graph, the following information, *inter alia*, can be drawn:

- (i) The distribution of pilot Ménard's time on a 24-hour basis for the month of June 1964 was as follows:

Assignment	Aggregate Time			Average					
				Per Event		Per Day			
	No.	hrs.	mins.	hrs.	mins.	No.	hrs.	mins.	
Movages.....	48	76	30*	1	36	1.6	2	33	
Cancellations.....	0								
Detentions†.....	9	not av.				0.3			
Time waited after boarding.....	44	39	30		54	1.5	1	19	
Regular leave.....	4	96	00	24	00		3	12	
At home between assignments‡.....	48	508	00	10	35		16	56	
Total time.....		720	00				24	00	

\*For breakdown, vide preceding table.

†Time included in movages.

‡Including travelling time to and from assignments.

SOURCE: EX. 1416.

- (ii) The aggregate time shown as detention is the period between the time the pilot reported to the time the ship departed, because the data available are insufficient to calculate true detention time.
- (iii) The distribution of work on a daily basis was:
- |   |    |
|---|----|
| Number of regular holidays (1 day per week)     | 4  |
| Number of days availability without assignments | 2  |
| Number of days with one assignment              | 3  |
| Number of days with two assignments             | 15 |
| Number of days with three assignments           | 6  |
- (iv) Re irregular working hours, assignments were distributed as follows:
- |                       |    |
|-----------------------|----|
| Between 0001 and 0600 | 9  |
| Between 0600 and 1200 | 8  |
| Between 1200 and 1800 | 16 |
| Between 1800 and 2400 | 14 |



- (v) The harbour pilots depend greatly on Seaway traffic. Of the 48 movages performed by pilot Ménard in June 1964, 34 were to or from St. Lambert lock, 9 of which were upbound movages interrupted by tying up at the wait wall. Most of the 14 other movages were from anchorage to an elevator berth or between elevator berths, a great number of which involved Seaway vessels.

## 6. PILOTAGE REVENUE AND TARIFF

### PREAMBLE

The tariff rate has a direct impact on the Montreal pilots' remuneration because it is related to their pilotage earnings.

The remarks made concerning the system prevailing in the Quebec District, pp. 463-466, apply here, except for the following:

- (a) The same method was used after 1962 to raise the pilotage dues without changing the tariff structure by the device of surcharges. However, the amount of the surcharges is not the same:
  - (i) For river pilots, the first surcharge was 11 per cent in 1965 increased to 16 per cent in 1966, 22 per cent in 1967 and 31.15 per cent in 1969.
  - (ii) For the harbour pilots, it amounted to 10 per cent in 1965 and was raised to 15 per cent in 1966, 21 per cent in 1967 and 39.15 per cent in 1969.
- (b) The financial statements do not segregate the dues collected pursuant to the compulsory payment system, since for both groups of pilots these dues are paid to their respective pool for sharing.
- (c) The sole revenue from pilotage dues to the Pension Fund of the river pilots is their compulsory contribution. The harbour pilots do not have a Pilot Fund and, hence, the total amount of the dues collected (except for radiotelephone rental charges) is paid into their pool.

### (1) PILOTAGE REVENUE AND TARIFF—RIVER PILOTS

The following table analyses the river pilots' pilotage earnings for the years 1955, 1959, 1962 and 1968, and also shows in percentage the general relative importance of each item of dues accruing to them.

#### (A) *Pilotage Voyage Charges (Trip Charges)*

Income from this type of pilotage service has always accounted for most of the earnings accruing to the pilots, more so since 1958 when the river pilots ceased to perform movages in Montreal harbour. Trip revenues

# MONTREAL RIVER PILOTS—COMPARATIVE ANALYSIS OF EARNINGS AND DISTRIBUTION OF PILOTAGE DUES

Evidence

Pilotage Dues	1955	1959	1962	1968
<b>A. PILOTAGE DUES EARNED</b>				
<b>I. Dues accruing to pilots:</b>				
(a) Trips—tonnage.....	\$ n/av.	\$ n/av.	\$	\$
draught.....	n/av.	n/av.	1,280,193.49	1,672,491.78
winter tariff.....	—	—	42,847.87	104,815.50
total earned by trips.....	\$865,458.12	\$1,490,079.06	\$1,696,538.06	\$2,376,399.63
(b) Movages*.....	105,845.50	23,692.00	19,257.50	24,474.48
(c) Detention.....	9,965.00	12,675.00	13,993.00	53,353.85
(d) Cancellation.....	608.00	930.00	660.00	1,122.26
(e) Travel allowance (St. Lambert lock)	—	—	4,827.00	7,589.91
Total dues accruing to pilots.....	\$981,876.62	\$1,527,376.06	\$1,735,275.56	\$2,462,940.13
<b>II. Dues accruing to Receiver General of Canada:</b>				
Radiotelephone charges.....	—	—	—	29,965.00
Total Pilotage Dues Earned.....	\$981,876.62	\$1,527,376.06	\$1,735,275.56	\$2,492,905.13
<b>B. DISTRIBUTION OF PILOTAGE DUES EARNED</b>				
<b>I. Payable to, or on behalf of, pilots:</b>				
(a) Payable to Pension Fund on behalf of pilots—compulsory deductions.....	\$ 98,187.66	\$ 152,737.61	\$ 173,527.56	\$ 246,294.01
(b) Payable to pilots (Corporation).....	883,688.96	1,374,638.45	1,561,748.00	2,216,646.12
Total payable to, or on behalf of, pilots.....	\$981,876.62	\$1,527,376.06	\$1,735,275.56	\$2,462,940.13
<b>II. Payable to Receiver General of Canada.....</b>				
Total Distribution of Pilotage Dues Earned.....	\$981,876.62	\$1,527,376.06	\$1,735,275.56	\$2,492,905.13

SOURCE: Ex. 534(b).  
 \*Since 1959, includes the \$20 Seaway non-compulsory charges (vide p. 781).

accounted for 88.1 per cent of the total pilots' earnings in 1955 but (excluding Seaway charges) rose to 97.6 per cent in 1959 and still accounted for 96.5 per cent in 1968.

According to the District tariff structure, there are three types of charge that may apply to the computation of dues for pilotage performed during a trip: basic rates, Seaway charge and winter tariff. For dead ships the rates are increased by 50 per cent. There is also the St. Lambert lock travelling allowance charge which is studied on pp. 785-6.

The 1927 tariff provided special rates for towed ships which were deleted during the 1947 tariff revision. In 1950, a 50 per cent additional charge was imposed but for movages only. It was only in 1961 that this addition was extended to trip rates. It is not possible to ascertain from the financial statements the relative importance of the 50 per cent increase for trips with dead ships because revenues derived from that source are not segregated. It may be fairly assumed that they amount to comparatively very little.

Prior to 1961, trip revenues were not broken down by components of the trip charge. In 1962, trip charges (excluding Seaway charges) accounted for 97.8 per cent of the pilotage dues accruing to the pilots. Of these, the draught rate accounted for 73.8 per cent, the tonnage rate 21.5 per cent and the winter tariff 2.5 per cent. In 1968, due to the trend to larger ships and the gradual disappearance of smaller ones and also because of the limitation placed on maximum draught by the available channel depth, tonnage revenues showed a percentage increase and draught revenues a percentage decrease. In that year, trip charges (excluding Seaway charges) accounted for 96.5 per cent of the pilots' earnings, draught charges, 67.9 per cent, tonnage, 24.3 per cent and winter tariff, 4.3 per cent. The Seaway charges yielded 0.3%. They are included in movage revenue (vide p. 781).

(a) *Basic rates*

While the amount of trip rates has been repeatedly changed, the trip rate structure has remained substantially the same. In the 1927 tariff, which retained the features of the past, trip rates were governed by three factors: draught, class of ship and distance run. Draught was the sole basic component as was then the general custom. The draught rate varied according to the type of ship—towed, inland, coastal, ocean-going or sailing ship—and in that order. For instance, the rate per foot draught for a full transit from Quebec to Montreal for these types of ships was respectively \$2, \$3.25, \$3.50, \$4 and \$4.20 (an outbound trip for a sailing ship cost much less, \$2.80 per foot draught). As for distance run, the system was the same as today, the District being divided into four zones at Portneuf, Trois-Rivières and Sorel. The draught rate increased with the number of zones covered during a trip but the rate considered on a zone basis decreased with the number of zones covered.



This feature has been retained since. A special rate was provided for trips wholly contained in the fourth zone (Sorel—Montreal).

The 1927 tariff remained unchanged until 1935 when it was reduced by a general 4 per cent decrease which lasted until 1941, and from 1941 to 1947 by a general surcharge which varied from year to year between 10 and 25 per cent.

In 1947, the tariff provisions were amended and simplified; the same basic structure was maintained but the special charge for the fourth zone was abandoned; the category of sailing ships was deleted and the rates were increased. This tariff was increased by two surcharges of 10 and 12 per cent in 1948 and 1949 until it was replaced in 1952.

The main change in the 1952 tariff was the introduction of a second component in the basic rate, a tonnage rate which, in contrast to the draught rate, did not vary with the length of the trip. The draught rate was made uniform for all types of ships (except towed) but continued to vary according to the number of zones involved.

In 1959, the tonnage component was also made to vary with the number of zones involved but this time the increase was in direct proportion to the number of zones, increasing from one-fifth of a cent for one zone to four-fifths of a cent for a full transit.

The previous tariffs had always provided for minimum and maximum charges. In 1959, the maximum for the tonnage charge was raised from 7,500 to 15,000 NRT.

The present trip rates were established in 1962 and have not been altered since, except for surcharges.

The present trip rate structure is based on three elements: basic rate, distance run and type of ship.

- The basic rate consists of two variable components based on draught and tonnage.
- Distance run is computed according to the previous four-zone system, the common limits of which are still Portneuf, Trois-Rivières and Sorel
- Ships are divided into two categories: small local ships, i.e., coastal and inland water ships not exceeding 2,000 NRT, and others. The pilotage or moorage of a dead ship calls for a 50 per cent increase in the normal rates.

Distance run and type of ship are taken into account by fixing different rates for the components of the basic rate with minimum and maximum charges.

- (i) The draught rate is the same for all vessels but varies with the number of zones involved as follows: \$3.37, \$4.65, \$5.93 and \$7.21 per foot draught.

- (ii) The tonnage rate varies both as to type of ship and distance run. For small coastal and inland vessels, there is an invariable flat rate of \$20.41; for other ships, one-quarter of a cent per NRT per zone (one cent for a full transit).
- (iii) Minimum and maximum charges are provided. For small coastal and inland vessels the minimum charge varies according to the number of zones as follows: \$66.60, \$75.48, \$84.36 and \$93.24. For other ships, there is a minimum for both components. The minimum draught charge varies with the number of zones: \$53.98, \$74.40, \$94.91 and \$115.44 and there is no maximum. The minimum tonnage charge, however, is \$20.41 irrespective of the number of zones. The maximum tonnage rate is \$38.28 per zone, making a maximum tonnage charge of \$153.12 for a full transit.

#### COMMENTS

Although it is true that the tariff structure is governed by the characteristics of the various services being performed and, therefore, can not be exactly the same for all Districts, the basic principle remains the same. It is considered that the Montreal tariff structure for a trip charge is unnecessarily complicated in the following respects:

- (i) The draught component should be deleted (Part I, p. 164 and pp. 176 and ff.).
- (ii) Except for dead ships, all distinctions between ships based on class should be deleted. A regular trader should not be compelled to employ a pilot because of her size or the competence in local navigation of her Master or other officer(s), if she does not constitute a danger to navigation (Gen. Recs. 22 and 23, Part I, pp. 532 and ff.). On the other hand, if the Master of such a ship wishes to avail himself of the services of a pilot, he should pay regular rates and there should be a minimum so that the pilot will be assured of reasonable compensation (Part II, p.351).
- (iii) The sole component of the basic rate should be maximum gross tonnage (Part I, p. 176, p. 181).
- (iv) There should be no maximum charge and the tonnage charge ceiling should be abandoned.

The higher rate per zone for shorter trips appears to be a discriminatory feature against the intermediate ports. No ship or port should receive less favourable treatment as a result of the internal organization adopted by the Pilotage Authority and the pilots for the provision of services. Above a minimum rate, all trips should be treated alike when determining the cost to shipping, unless there are special services to be rendered in a particular locality. Since most traffic is in transit, it is to be expected that the pilotage

service will be organized to meet this type of demand in the most efficient manner, i.e., by maintaining at the upper and lower ends of the River a pilot station where pilots are available in sufficient numbers. It is also logical that the inconsiderable requirements at intermediate ports should be treated for organizational purposes as cases of exception, since it would be an unwarranted waste of the pilots' time to maintain a reserve at these ports when they can readily travel by land from the nearest pilot station when required. If, however, the demand at such intermediate ports were to become substantial, a pilot station would be justified.

*A fortiori*, there should not be different rates for transit trips between two pilot stations because one trip finishes or begins at an intermediate pilot station and the other is a full transit trip. This is a feature remaining from the past which can not be justified now that the District is divided *de facto* at Trois-Rivières. The rates should be the same for a transit trip in either sector and a full transit through the two sectors should call for two trip charges and not a lesser amount.

(b) *Seaway charge*

The tariff provides for a flat \$20 charge which is added to the trip charge in the case of trips involving a transit of the approach to the Seaway, i.e., between the Seaway entrance in the harbour and St. Lambert lock. This charge is not subject to the compulsory payment rule and is applied only when the pilot, at the Master's request, has actually piloted in that sector of the Seaway. For the background of this extraordinary situation in a District where the payment of the dues is deemed to be compulsory, vide p. 628.

The revenue from this source is not segregated in the statistical data contained in the Pilotage Authority's annual reports, but is included with revenue from movages. In 1968, it represented 0.3% of the total revenue. The following table shows for the calendar years 1963-1968 the number of times such a charge was made and the aggregate amount of dues (surcharge included) represented (Ex.1539(t)):

Year	Number of times	Revenue
1963.....	252	\$5,040.00
1964.....	272	\$5,440.00
1965.....	262	\$5,816.40
1966.....	327	\$7,586.40
1967.....	293	\$7,149.20
1968.....	310	\$7,564.00

In addition, the river pilots are entitled to a travelling allowance of \$3 (plus surcharge) each time they board or disembark at St. Lambert lock, whether or not they have piloted, or will pilot, through the Seaway approach (vide pp. 785-6).



*(c) Winter tariff or assistant pilot's remuneration*

While the remuneration of the second pilot on winter trips is not a new feature, it became a new tariff item only in 1961 when the practice was officially recognized and special rates provided for it. As in the District of Quebec, it takes the form of a surcharge which is added between December 1 and April 8, whether one or two pilots are assigned. The winter surcharge equals the trip dues but with a ceiling of \$100. The winter rate and its ceiling, like other tariff items, have been affected since 1965 by the general surcharge as amended. As a result of the increasing number of ships navigating during the winter, this item reached 4.3 per cent in 1968; it represented only 2.5 per cent of the pilots' earnings in 1962. Since this covers only the winter surcharge, the incidence of the aggregate dues earned through winter trips will be somewhat more than twice as much. The comments on p. 470 also apply here.

*(d) Other components*

Since 1963, the financial statements have segregated as a separate component of the trip charge what is called tonnage overcharge. In fact, this is not a component but merely reflects the readjustment of the tonnage of ships under foreign measurements to British measurements (vide Part I, p. 168). It forms part of tonnage revenue and should not be segregated. If it is desirable to indicate the savings made by remeasuring, a footnote would suffice. In 1968, this accounted for 0.3 per cent of total earnings.

As indicated above, the 50 per cent surcharge for trips affecting dead ships is not segregated.

*COMMENTS*

In the Montreal District, for tariff purposes there is no such category of vessels as Class A vessels for which a special surcharge is added in Quebec. Ships falling under the exclusive competency of Grade A pilots (over 8,000 NRT) pay dues at the same rates as the others but the aggregate amount is larger on account of the per ton charge. At present, the maximum tonnage is fixed at 15,312 tons, i.e., a maximum charge of \$153.12 for a 1¢ per ton rate. As stated earlier, it is considered that this ceiling should be deleted.

It is also considered that in this regard the Montreal tariff structure is preferable to the Grade A surcharge provided by the Quebec tariff. There should be no relation between the tariff and the grading of pilots which is merely an internal aspect of the pilotage service designed to provide a small group of highly competent pilots to handle the most difficult assignments.

*(B) Movage Rates*

Since the creation of the Montreal harbour pilots' group in 1957, it has been beyond the Montreal river pilots' competency to perform movages in the

harbour of Montreal. Although the harbour pilots' territorial competency does not extend farther downriver than the end of Montreal Island and, therefore, does not cover the whole of the harbour, a ship's movement within Montreal harbour but commencing or terminating below the end of the Island is, for pilotage purposes, a trip within the fourth pilotage zone and not a movage, e.g., a trip between the upper part of Montreal harbour and Contrecoeur.

Although the Montreal tariff contains rates for movages in the harbour of Quebec, these movages are handled exclusively by the Quebec District pilots, and only the few upbound ships which did not proceed beyond the harbour upstream limits are shown as movages for billing purposes (vide pp. 751-2). The small number of movages performed by the Montreal river pilots are performed mainly at Trois-Rivières and Sorel.

The pilotage revenue derived from movages in 1955 amounted to 10.8 per cent of the pilots' earnings but dropped to 1.5 per cent in 1959 after the creation of the Montreal harbour group. In 1968, it amounted to only 1 per cent. These statistics from 1959 on are misleading because the \$20 non-compulsory Seaway charge and compass adjustment revenue are wrongly shown under movages (vide pp. 781 and 786).

The rates for so-called movages in the harbour of Quebec were made to coincide with the applicable rates in the Quebec tariff.

Other movages are charged as a flat rate of either \$16 or \$25, the criterion being whether a pilot happens to be available in the harbour when the assignment is made. These rates are also affected by the general surcharge of 1965 as amended to date.

#### COMMENTS

It is considered that this rate structure is illegal in that it discriminates against certain ships by making the amount of the dues dependent upon a criterion which is solely dependent upon the internal organization of the service. A ship should neither be penalized nor benefit because a pilot is or is not available at an intermediate port. The cost of transporting pilots by land should be part of service administrative expenses taken into consideration when the rates are fixed and prorated among all movages (Part I, p. 154).

Furthermore, the movage rate should be based on both the nature of the movage being performed and also the size of the ship, i.e., her maximum gross tonnage (Part I, p. 154).

#### (c) *Detention*

Revenue from detention rose from 1 per cent in 1955 and 0.8 per cent in 1959 and 1962 to 2.2 per cent in 1968 due to the 1965 By-law

amendment which increased the number of cases for which detention is paid:

- (a) Detention on board a vessel:
  - (i) from March 16 to December 31, except if attributable to stress of weather or adverse tide or ice conditions;
  - (ii) between January 1 and March 15 for any reason.
- (b) For waiting to board a ship after ordered time, or the time the pilot actually reported, if later:
  - (i) at any time of year while waiting to board at St. Lambert lock;
  - (ii) between January 1 and March 15:
    - at any wharf throughout the District awaiting a scheduled departure;
    - at the Trois-Rivières pilot station awaiting a scheduled arrival.

The rate is set at \$3 per hour up to a maximum of \$25 per day; it is payable after the first hour, except in the two last cases only after the first six hours. Detention is also subject to the general surcharge.

#### COMMENTS

As elsewhere, some of the detention provisions in the Montreal District result from the incorrect assumption that the charge is a kind of remuneration for idle time when in reality it is merely an indemnity payable when there is a breach of contract. After a pilot has boarded a ship at ordered time or when a ship passes a boarding station, there is an implied contractual obligation that the pilot will bring the ship to her destination as speedily as safety permits. If the shipping agent or Master interferes, he should indemnify the pilot but, if the delay is due to causes beyond the Master's or agent's control, this is *force majeure* as far as he is concerned and no indemnity should be payable. To prescribe a detention charge in such cases amounts to an increase in the trip rate for idle time on board — a situation which should not be allowed in a system where the pecuniary consideration of the pilotage contract is based on the nature of the service being performed and not on time involved (vide Part II, pp. 157 and ff.). Delays *en route* for any other reasons are normal hazards which should have been taken into consideration when the trip rates were established. Winter trips are, however, cases of exception to the rule.

It is part of the pilot's function to wait at the boarding station for ships to arrive. The ETA's ships are required to give are only a means to help improve the pilots' working conditions; a ship should never be penalized when she is behind her ETA due to circumstances beyond her control. This is particularly true of ETA's at St. Lambert lock for downbound ships because



delays on the Seaway occur for reasons quite beyond the control of Masters, especially now that ordered time is determined (as it should be) by the despatching staff of the Pilotage Authority. There is no particular reason why a detention charge should be provided for St. Lambert lock and not for the other boarding points for ships in transit. This provision should be deleted. (Vide further comments, pp. 740 and 759-60.)

Winter navigation is a case of exception. Here again, since ordered time is set by the despatching office of the Pilotage Authority based on information from Traffic Control on the progress of the ship concerned and existing weather conditions, there should be very few occasions when detention applies at Trois-Rivières, provided the despatching office obtains systematic reports of the ship's progress from Traffic Control and makes any necessary amendments to the despatching orders before the pilot actually reports. The latest By-law provision on the subject, which was added in 1965 (P.C. 1965-1173), gave effect to a recommendation made by the Pilots' Federation to this Commission on behalf of the Montreal river pilots.

#### (D) *Cancellation*

The revenue yielded from this source has always been small. In 1965, it amounted to \$608 representing 0.1 per cent of the pilots' earnings and in 1968, \$920 representing 0.04 per cent of their earnings.

The cancellation tariff provision (sec. 9) is identical with the provision for the District of Quebec and the comments on p. 474 apply here.

Like the detention item, it was also introduced in 1937.

#### (E) *Travelling Allowance*

As a rule, the rates are the pilots' gross remuneration and include whatever they have to pay in travelling expenses (except pilot vessel service, p. 743) to board or return to a pilot station or their residence after disembarking. This includes the cost of travelling between stations when transferred by land. Reimbursements to pilots of their travelling expenses should be effected from the gross pilotage revenue of the District as District operating expenses.

In 1959, one exception was made to the rule to cover Montreal District trips when the river pilots either boarded or disembarked in the St. Lambert lock area. As part of the compromise solution to the dispute over the extension of river trips in cases of ships in transit (p. 628), an additional charge of \$3 was added to the trip charge in the guise of a travelling allowance to indemnify the pilots for the extra travelling expenses they had to incur proceeding to or from the lock. While the other extra remuneration amounting to \$20 can be charged only if the pilot performs pilotage duties on

that part of the Seaway, the \$3 travelling allowance is chargeable in all cases. These charges have also been increased since through the general surcharge.

This item of revenue accounted for 0.3 per cent of the pilots' earnings in 1962 and 1968.

#### *COMMENTS*

It is considered that this travelling allowance is an unwarranted exception to the tariff structure. There is no reason why shipping should have to pay travelling expenses when pilots happen to embark or disembark at St. Lambert lock but not at other points in the District, such as Sorel and Contrecoeur, or even berths at the downstream extremity of Montreal harbour. It is obvious that this was a compromise solution which the Pilotage Authority was forced to accept because it could not impose a decision for lack of a legal definition of the upstream limit of the District.

#### *(F) Compass Adjustments*

The Montreal tariff correctly provides a special charge for compass adjusting in the form of a flat rate currently fixed at \$25. This item is also affected by the general surcharge.

The financial statements do not segregate the revenue derived from this source but incorrectly include it with movage revenue. However it is of little importance in relation to the aggregate revenue. The financial statements no longer give a breakdown of movages but, when they did, compass adjustments amounted to no more than 1 per cent of the total.

#### *(G) Unofficial Earnings*

As in Quebec up to 1960, unofficial earnings were paid to pilots in contravention of sec. 372 C.S.A. These were the bonuses paid to the special pilots and the unofficial remuneration of the assistant pilot on winter assignments.

These irregularities were corrected when the special pilot system was abolished and when the second pilot requirement on winter trip assignments was officially recognized. At present, the pilots receive no unofficial remuneration.

#### *(H) Pilotage Dues Payable to the Receiver General of Canada*

In the Montreal District, the only type of such dues which, according to the regulations, are collected on behalf of, and paid to, the Receiver General of Canada are radiotelephone rental charges. Now that the VHF network is set up, ships taking pilots are required to have VHF radiotelephone facilities

on board but, if a ship is not so equipped, the pilot embarks with a portable radiotelephone set rented to him by the Department of Transport. The rental charge is in turn imposed on the ship in the form of a pilotage charge (added in 1966) of \$15 for a pilotage trip and \$5 for a movage. These rates are not affected by the general surcharge. For the years 1966, 1967 and 1968 this item brought the Government \$14,695, \$29,765 and \$29,965 respectively.

In the Montreal District, as seen earlier, the required pilot vessel services are provided neither by the Government nor the Pilotage Authority nor the pilots but by a private enterprise as arranged by the shipping interests themselves through the Shipping Federation of Canada (pp. 743-5). Pilot boat charges are collected by the launch operator directly from the agents; they are not considered pilotage dues and are not reflected in the financial statements. For comments on this practice, vide p. 743.

## (2) PILOTAGE REVENUE AND TARIFF—HARBOUR PILOTS

The harbour pilots' sources of revenue are movages, additional charges when upbound movages are interrupted at the St. Lambert wait wall, detentions and cancellations. The rates for all these have been increased since 1965 through the general surcharge which was mentioned earlier.

In addition, ships not equipped with VHF radiotelephone are required to pay \$5 rental for the portable set the pilots bring on board. This charge is not affected by the surcharge.

The following table analyses the harbour pilots' pilotage earnings for the years 1958, 1959, 1962 and 1968, as shown by the financial statistics contained in the Pilotage Authority's annual reports. These statistics are somewhat misleading in that they do not segregate the additional charge of \$20 for the first hour and \$5 for each additional hour (Schedule, subsec. 5(1)(e) and sec.11) which is added to the regular movage charge when an upbound movage is interrupted by the ship tying up at the St. Lambert wait wall. However, further confusion is added by including in the movage revenue the dues yielded by the first part of this rate (the \$20 charge for the first hour) and in the detention revenue the dues yielded by the second part of the rate (the \$5 for each additional hour).

### (A) *Movage Rates*

Movage earnings account for the bulk of the harbour pilots' revenue: in 1958, 97.2 per cent and in 1968, 92.1 per cent. The percentage decrease in 1959 resulted from an amendment to the tariff granting the pilots a detention indemnity for waiting to board at St. Lambert lock, thus increasing revenue from this source from 0.8 per cent to 5 per cent.

When the harbour pilots' group was formed in 1957, their remuneration was governed by the 1952 tariff whose structure was the same as for trip



## MONTREAL HARBOUR PILOTS—COMPARATIVE ANALYSIS OF EARNINGS AND DISTRIBUTION OF PILOTAGE DUES

Pilotage Dues	1958	1959	1962	1968
<b>A. PILOTAGE DUES EARNED</b>				
<b>I. Dues Accruing to Pilots:</b>				
(a) Movages.....	\$110,269.50	\$202,770.50	\$193,707.25	\$247,040.30
(b) Detention.....	872.00	10,904.00	6,942.00	19,694.35
(c) Cancellation.....	2,316.50	2,498.00	1,120.00	1,621.48
	97.2%	93.8%	96.0%	92.1%
	0.8	5.0	3.4	7.4
	2.0	1.2	0.6	0.5
Total Dues Accruing to Pilots.....	\$113,458.00	\$216,172.50	\$201,769.25	\$268,356.13
	100.0%	100.0%	100.0%	100.0%
<b>II. Dues Accruing to Receiver General of Canada:</b>				
VHF radiotelephone.....	—	—	—	1,590.00
Total Pilotage Dues Earned.....	\$113,458.00	\$216,172.50	\$201,769.25	\$269,946.13
<b>B. DISTRIBUTION OF PILOTAGE DUES EARNED</b>				
<b>I. Payable to Pilots.....</b>				
	\$113,458.00	\$216,172.50	\$201,769.25	\$268,356.13
	100.0%	100.0%	100.0%	100.0%
<b>II. Payable to Receiver General of Canada.....</b>				
	—	—	—	1,590.00
Total Distribution of Pilotage Dues Earned.....	\$113,458.00	\$216,172.50	\$201,769.25	\$269,946.13

SOURCE: Ex. 534(b).

rates, i.e., based on zones and types of ship. The harbour, which at that time did not extend downstream farther than the east point of Montreal Island, was divided into three zones, the demarcation points being berth 19 and berth 50. The rate was \$13 for a movage within the first zone and \$16 within zone 2 or zone 3 and between zones 1 and 2. For the longest movage, i.e., between zones 1 and 3, the rates varied depending whether the ship belonged to one of the two special categories defined in the trip rates, i.e., \$20 for inland waters and coastal vessels not exceeding 2,000 NRT, and \$32 for all other vessels. The same classification also applied to movages whose point of departure or point of origin was Vickers shipyard, in which case the rates were respectively \$16 and \$25.

In 1958, the movage rates were indirectly increased by the addition of a uniform \$2 charge in the guise of a transportation allowance which was to be raised in 1959 to \$3 for movages whose point of origin or destination was St. Lambert lock. Also, in 1959, a new situation was provided for, i.e., a movage whose point of origin or destination was St. Lambert lock, with rates of \$20 and \$32 respectively according to the ship's category.

The basic reform took place when the By-laws were consolidated in 1961. The provisions for the so-called transportation allowance were deleted and it was compensated for by the indirect increase which resulted from abandoning the zone system and making the higher rates per category of ship applicable to all movages.

The tariff structure was again amended in 1962 by creating two new categories of larger ships and setting higher rates, i.e., \$36.50 for ships between 3,000 and 5,000 NRT and \$41 for ships with greater tonnage.

The only further modification was the additional charge imposed as a result of the compromise solution to the St. Lambert lock dispute, i.e., when a vessel is moved by a harbour pilot from a moored position at the wait wall into the lock during a movage originating in the harbour, an additional charge of \$20 for the first hour and \$5 for each additional hour is made (Schedule, subsec. 5(1)(e) and sec. 11).

All these rates have been increased since 1965 by the general surcharge mentioned above.

When they appeared before this Commission, the harbour pilots made two recommendations:

- (a) that the principle of grading movage fees with ships' tonnage be extended beyond the 5,000-ton limit through an additional charge per extra 1,000 tons;
- (b) that the \$3 transportation allowance when embarking or disembarking at St. Lambert lock, not withdrawn in the case of river pilots, be reinstated.

The main reason advanced in support of the first recommendation was that moving larger ships is much more difficult and takes longer. The pilots suggested that the per thousand-ton additional rate be imposed up to a ceiling of 15,000 NRT, and supplied for 1962 the breakdown of the movages they had performed with ships exceeding 5,000 NRT. These totalled 1,210 and accounted for 21.4 per cent of all movages.

5,000 to 6,000 tons	585
6,000 to 7,000 tons	209
7,000 to 8,000 tons	151
8,000 to 9,000 tons	37
9,000 to 10,000 tons	93
10,000 to 11,000 tons	25
11,000 to 12,000 tons	13
12,000 to 13,000 tons	63
13,000 to 14,000 tons	34
Total:	<hr/> 1,210 <hr/>

The argument in favour of the second recommendation was that the harbour pilots were discriminated against since the river pilots continued to enjoy the allowance. The Shipping Federation was strongly opposed because of the principle involved and felt that acceptance would create a precedent with far-reaching consequences. It was pointed out that the general so-called travelling allowances the harbour pilots enjoyed prior to 1961 were, in fact, disguised additional charges which were treated as such by the pilots themselves by including them in the pool, and had never been considered as belonging to the pilots who actually incurred the expenses.

#### COMMENTS

The Commission concurs with the principle of the pilots' first recommendation but considers that the system of categories should be replaced by the same kind of tariff structure as the Commission recommended for trip rates, i.e., a minimum charge applicable to all vessels below a given gross tonnage above which an additional charge would be made according to a per ton rate of the ship's maximum gross tonnage. There should be no ceiling, ships being required to contribute toward the support of the pilotage service strictly according to their size.

On the other hand, the second recommendation is obviously ill-founded. The so-called travelling allowance for the river pilots was an error in the first place, the result of a compromise solution that the Pilotage Authority was forced to accept in the circumstances, which should be abolished (p. 628). There is no objection to reimbursing the pilots their travelling



expenses but this is a matter of internal organization which does not concern shipping. Whether or not a pilot has to travel to, or return from, a particular boarding place depends upon service arrangements, i.e., whether pilot stations have been created and, if so, where they are situated, and ships and places should not be discriminated against on that account. The aggregate expenses the pilots have to incur in the performance of their duties must be taken into consideration when the rates are established so that the expected yield from dues will leave the pilots adequate net remuneration. Thus, the pilots' expenses form part of the District and service expenses and are prorated fairly among all the users.

### (B) *Detention and Cancellation Charges*

The tariff sections dealing with detention and cancellation are common to both river and harbour pilots. The remarks and comments on pp. 784-5 apply *mutatis mutandis*.

As remarked earlier, the financial statements give the wrong impression because the \$5 hourly rate after the first hour for that part of a movage between the wait wall and St. Lambert lock has been wrongly considered a detention charge. This is incorrect since it is not remuneration for idle time but for pilotage service being performed during all or part of the time. There was no excuse for entering it under detention because it is made the subject of a separate tariff provision (sec. 11) while the detention provisions are contained in sec. 7.

The first source of confusion is the manner in which the additional charge for an upbound movage interrupted at the wait wall was dealt with in the tariff. As a result of the 1964 compromise (p. 719), the rates for a movage whose destination was St. Lambert lock were:

- (a) If the movage is uninterrupted and the ship enters directly into the lock, only the basic movage charge is payable varying with the size of the ship as provided in the tariff subsecs. 5(1)(a), (b), (c) and (d).
- (b) If the same type of movage is interrupted at the wait wall, an additional charge becomes payable. In this case, time becomes significant since the period between the moment the ship first ties up at the wait wall until she is finally secured in the lock depends upon traffic and, therefore, may be quite substantial. Hence, it was realistic that the remuneration for that element of the pilotage service should be partly based on the time involved. The following solution was adopted: lockage is treated as part of the movage and the remuneration for it is included in the applicable basic movage rate; the series of berthings and unberthings at the various wait wall positions (including the resultant idle time between each

move) is considered extra service for which the remuneration is realistically fixed at \$20 for the first hour and \$5 for any extra hour or fraction of hour.

There seems to be no reasonable explanation why the tariff provision for the second part of the additional charge was made the subject of a separate provision (sec. 11) and was not embodied in the same provision dealing with the first part of the extra charge which was correctly added to para. (e) to subsec. 5(1), unless it was an attempt to obscure the real impact of the concession made to the pilots despite the owners' stern opposition. There is no record in the Pilotage Authority's annual statement of the amount of revenue yielded by the first part of the additional charge since the sums collected were included in the aggregate figure of movage revenue. The revenue yielded by the second part of the additional charge was segregated for one year only, 1964, when it practically equalled the revenue from the true detention charge (detention revenue—\$8,925; revenues from sec. 11—\$7,204). Thereafter, it was included under detention. In 1965, the amount more than doubled, being \$19,001 (Ex.1539(r)).

#### COMMENTS

It is considered that the tariff provision should be corrected by incorporating sec. 11 with subsec. 5(1)(e) of the tariff. The revenue yielded by sec. 11 should be counted as movage revenue and not as detention revenue. On account of the importance of the question, it would be advisable for information purposes to segregate the revenue for services rendered at the wait wall and show it as a separate item.

#### *(c) District Revenue Derived from Sources Other than Pilotage Dues*

There are three types of such extraneous revenue: examination fees, licence fees and fines. The revenue from these sources is very small and is not reflected in the District financial statements which are limited to pilotage dues. However, the fines imposed are listed for information purposes in the general commentaries accompanying the financial statements.

With regard to the river pilots, the By-law provides for the payment of a \$10 fee for granting an apprentice licence (subsec. 28(1)(d)) and a \$15 examination fee (subsec. 36(1)) but there is no fee for obtaining a pilot's licence.

With regard to the harbour pilots, the By-law provides for a \$5 examination fee (subsec. 49(2)), a \$10 fee for a probationary licence (subsec. 50(1)) and a further \$10 fee for a permanent licence (subsec. 50(3)).

As to the legality of the examination fee, vide Part I, p. 106. It is considered that the practice of imposing licence fees is a relic of free enter-

prise which has no place in a pilotage service fully controlled and provided by a Pilotage Authority whose employees the pilots have become, at least *de facto*. These licence fees should be abolished (Part I, p. 260). The aggregate amount of fines imposed on pilots each year is minimal. For instance, in 1968, three fines aggregating \$75 were imposed on river pilots and none on harbour pilots.

In the absence of a Pilotage Authority's expense fund, the revenue from licence fees and examination fees is paid upon receipt by the Pilotage Authority to the Consolidated Revenue Fund of Canada (Part I, p. 101).

Sec 708 C.S.A is followed regarding the disposal of fines. Those imposed on river pilots are credited to the Pension Fund of the Montreal river pilots, while those imposed on the harbour pilots are paid to the Consolidated Revenue Fund of Canada, since the harbour pilots have no Pilotage Fund.

## 7. PILOTS' REMUNERATION AND POOLING SYSTEM

### (1) RIVER PILOTS

Since 1918 (p. 604), the Montreal river pilots' basis of remuneration has been shares computed in accordance with a pooling system which the pilots have always operated themselves. Contrary to the situation that existed in Quebec, these arrangements have always been unofficial and the result of private agreements among the pilots, because they never succeeded in obtaining the same type of public corporation as the Quebec pilots did in 1860. From 1918 to 1968, the agreement was contained in a deed of partnership drawn up specially for that purpose. The partnership, to which all the Montreal river pilots belonged, was known as the *United Montreal Pilots* (p. 683). Since the partnership lapsed on December 31, 1968, the pooling rules have been contained in By-law No. 2 of the Mid-St. Lawrence Pilots' Corporation. They amount to a tacit deed of partnership through which the administration of the pool is entrusted to the Corporation (Part I, p. 91). The pooling operations are not extended to dissident pilots who, in 1969, had not as yet joined the Corporation (p. 689). The pooling rules are being constantly and substantially modified and, therefore, the following study will be limited to only the main features of the system.

For the same reasons as in Quebec, the Montreal pilots have adopted an incomplete and complicated *sui generis* pooling system and have retained it, despite the fact that for all practical purposes they are now in a position to operate a true and complete pool based on availability for duty. The special pilot system which prevented sharing the workload equitably has been abolished since 1959, and the Pilotage Authority has shown itself prepared to collaborate with the pilots by following any equitable despatching rules they may wish to establish.



The system is basically the same as in the Quebec District, i.e., equalization of trips, free turns, compulsory periodical leave and averaging the monetary value of trips (pp. 480 and ff.).

The main differences between the pooling systems of the Quebec pilots and the Montreal river pilots are:

- (a) While sharing rights are determined on the basis of trips performed during each pooling period, the value of a full share is based only on that portion of the money available for sharing at the distribution date which the Board of Directors decides to share (and not on the value of trip dues earned during the pooling period).
- (b) Each distribution (every fortnight in the regular navigation season) is final and the pilots' shares are paid in full. Hence, there are as many pooling periods per year as distributions and the value of a turn varies between distributions.
- (c) The method of determining partial shares differs (p. 481). It is based on despatching turns, with the deduction of an amount representing the value of turns which do not carry remuneration, and half value of those which carry half remuneration.

Turns not performed carry sharing rights as determined by the pooling rules applicable to each type of such turns. There are six cases where turns not performed carry full or partial pooling rights:

- (a) administrative free turns for non-availability due to Corporation or group business;
- (b) regular leave turns;
- (c) free turns granted for an extended period of duty in the event of a shipping casualty;
- (d) turns missed during the two first non-consecutive 24 hours of absence;
- (e) missed turns credited for sharing purposes only on condition that they are performed during the next pooling period;
- (f) indemnity turns for absence due to illness.

The following table shows the administrative free turns granted since 1959 when provision was made for them in the Corporation By-laws. Since the value of the turn changes from one distribution to another, the monetary value of the turns quoted is calculated on the basis of the yearly average, but for those granted for attending to Federation business the amount quoted is what was charged to, and obtained from, the Federation.

The Corporation was unable to furnish from readily available records the data shown as non-available but the information provided is considered sufficient to provide a reasonable appraisal of the incidence of free turns as administrative expenses.

## MONTREAL RIVER PILOTS—FREE TURNS CREDITED TO DIRECTORS AND MEMBERS OF COMMITTEES

Year	Average Value of Sharing Turns	Corporation			Federation			Total Amount of Free Turns
		Number of:		Monetary Value of Free Turns	Number of:		Amount Paid by Federation	
		free turns	pilots sharing		free turns	pilots sharing		
1959.....	\$ 68.72	.....	.....	\$ .....	.....	.....	\$ .....	\$ .....
1960.....	83.83	132	8	11,065.56	.....	.....	.....	.....
1961.....	79.82	103	8	8,221.46	.....	.....	.....	.....
1962.....	99.17	148	8	14,677.16	n/av.	2	766.03	15,443.19
1963.....	108.92	191.5	8	20,858.18	n/av.	n/av.	n/av.	n/av.
1964.....	104.70	115	8	12,040.50	n/av.	n/av.	n/av.	n/av.
1965.....	118.64	n/av.	8	n/av.	49	2	5,329.71	n/av.
1966.....	178.33	n/av.	8	n/av.	37	1	11,394.05	n/av.
1967.....	115.94	n/av.	8	n/av.	42	1	13,422.90	n/av.
1968.....	102.48	317	8	32,486.16	.....	.....	15,277.20	47,763.36

SOURCES: Tables on pp. 618 and 694 and Ex. 785.

In Quebec, free turns are also granted to replace turns missed during an assignment of unusual duration for reasons beyond the pilot's control and considered normal hazards of the pilot's profession. However, in Montreal, this is limited to the case when a pilot has to remain on board a ship after a shipping casualty (Corporation By-law No. 2, subsec. 5(e)). The Quebec provision is more equitable in that it extends to other normal hazards such as a non-pilotage strike and other fortuitous events, thereby correcting one of the injustices created by pooling based on the number of trip assignments rather than on availability for duty.

With regard to turns missed during the compulsory regular holidays, the Montreal pilots have decided to grant a fixed number of turns for both despatching and pooling purposes, irrespective of the actual number of turns missed during the holiday period. Sec. 12 of By-law No. 2 provides that the number of turns so granted is to be decided by the Board of Directors. This they do at the beginning of the season. At the same time, they decide the number and duration of the various compulsory regular holidays and draw up the holiday list, now three turns for each six-day holiday period (p. 723).

Sec. 10 also authorizes a pilot to take at his own discretion during the year two non-consecutive days of absence with full remuneration and without his place on the tour de rôle being affected. To achieve this, the pilot is granted for both despatching and pooling purposes the average number of turns performed by the other pilots during the period in question. This applies to the two first absences in the year that are not regular holidays but including absences due to illness. To take advantage of this privilege the pilots must give prior notice to the Secretary-Treasurer of the Corporation.

As a rule, the equalization applies only within a pooling period and terminates at each distribution since each is final. As seen earlier, to deprive a pilot who has been absent of the benefit of equalization, he is credited for despatching purposes with the number of turns he missed. An exception is made for those absences of short duration which are beyond the pilot's control, i.e., the death of his wife or a close relative, or a court order. Provided the pilot concerned has notified the Secretary-Treasurer in advance, the equalization privilege is extended to the end of the next pooling period. Therefore, if he has been unable to make up the lost turns during the pooling period when the absence took place, he is credited with the missed turns for pooling purposes only, thereby receiving a full share as if he had not been absent. He will then be required to make up the missed turns within the next pooling period, otherwise his share in the next distribution will be decreased by the value of the turns he has failed to perform.

By the 1965 amendment to the pooling rules, the restricted application of the equalization rule was relaxed to prevent a pilot from suffering a pecuniary loss through absence imposed upon him, e.g., preventive suspen-



sion or attendance at investigations or disciplinary proceedings, if eventually he is found not guilty of the offence or of negligence. He will be reimbursed the amount deducted from his share at the various distributions on account of the turns he missed during his forced absence as he succeeds in making them up, provided he does so during the fiscal year.

The Montreal pilots' pooling arrangements also provide for sickness benefits which amount to half remuneration over a consecutive period not to exceed two years and for further such periods, provided that between them the pilot has been on active duty for three months without interruption. No distinction is made whether or not the illness or injury is due to the service. If absence due to illness happens to be the first or second absence of the year not counting regular holidays, full remuneration is provided for the first day. To achieve this, the pilot is granted for each day the average number of turns performed by the pilots who were available for duty. When distribution is made, there is no deduction for the first day of absence if it happens to be one of the two for which he is entitled to receive full remuneration. For all the other days of such absence the turns so granted are half value, such value being determined according to a complicated process which will be explained later.

This sickness benefit continues to be paid even after the pilot has been retired due to physical or mental unfitness, in which case it is reduced by the amount of the pension he receives from the Pension Fund (By-law No. 2, subsec. 11(h), 1968 amendment). For this purpose and also for the purpose of group insurance benefits, the pilot retains his Corporation membership for the required period, despite his retirement as a pilot (By-law No. 2, subsec. 7(c), 1968 amendment).

To be entitled to sickness benefit the pilot must make an application within 30 days of the beginning of his absence, provide a medical certificate and submit to a medical examination if so requested by the Board of Directors. The decision of the Board of Directors is final (By-law No. 2, subsec. 10(e) and sec. 11).

For other absences the pooling rule provides that at distribution time the pilot concerned will lose the value of the average number of turns done by the pilots who were available for each day of his absence, except the first day for which his share is to be debited by the value of a full turn, which amounts to a penalty since the daily average is always a fraction of one turn.

#### (a) *Pooling Procedure*

While the Montreal river pilots base their pooling system on the same general principles as the Quebec pilots, the procedure adopted is quite different. The ensuing system leaves much to be desired from the point of view of equity in that it does not assure a pilot of an equal share of the pilotage dues earned by his services and those of the pilots employed during the same period.

The main reason why such a pooling procedure developed is doubtless the difficulty of obtaining sufficient funds to cover each distribution. An equitable system provides for the complete sharing of all money earned during the pooling period to the extent of each member's participation in the workload, whether that participation is determined in terms of availability for duty, e.g., the British Columbia District, or in the number of work units performed, e.g., Quebec District or the Montreal harbour pilots. Since a sizeable part of the dues earned during the pooling period will still be outstanding when the shares are established at the end of the period, the problem of financing the distribution arises. This problem has been solved in a number of ways: the British Columbia pilots have created a reserve fund of their own (Part II, p. 185); the Quebec pilots pay the outstanding amount of the shares as funds become available after a temporary reserve has been set aside to meet current liabilities, irrespective of the pooling periods to which the collected earnings belong; as was seen earlier, the Montreal harbour pilots do not finance the outstanding amount of the shares but make payments as dues earned during the pooling period concerned are collected.

The Montreal river pilots have adopted a system whose only advantage is the simplicity of its financing arrangements: while sharing rights are determined on the basis of work done during the pooling period, the value of a share is determined by the amount of money on hand which forms part of the pool after deducting a reserve for expected administrative or group expenses. Hence, with this system the value of the full share bears no relation to the average value of the work the pilots have done during the pooling period. The lack of equity of the system is compounded when the amount that will actually be shared is left to be decided arbitrarily by the Corporations' Board of Directors or Board of Control. Subsec. 8(b) of By-law No. 2 leaves it to the Board to decide how much of the accumulated funds they consider it prudent to share. The ensuing distributions have, in fact, become dividends (p. 689). Such a procedure is in conflict with the nature of pooling, may give rise to much abuse and may result in depriving a pilot of part of his just share.

Distribution is to be made during the navigation season every month, or more often as directed by the Board of Directors (By-law No. 2, subsec. 8(a)). Each distribution marks the completion of a separate pooling period and is final. More and more exceptions are being made to this rule by amendments to By-law No. 2 in the direction of a single pooling period corresponding to the Corporation's fiscal year with advance distributions.

#### *(b) Extent of Distribution*

Administrative and group expenses are paid as incurred out of funds on hand (subsec. 7(a)). Dues that do not form part of the pool, i.e., dues for movages, detentions and cancellations. Seaway charges and St. Lambert lock

transportation allowances, are also set aside for payment direct to the pilots who earned them (less the 10 per cent compulsory contribution to the Pension Fund). Up to 1969, Grade A pilots were also paid a bonus out of the common fund for each Grade A trip they performed. The Board of Directors then decides how much of the remaining available funds will be distributed among the pilots according to their respective sharing rights (subsec. 8(b)). The method normally used is to fix the amount of a complete share, e.g., in 1963, it was established at \$650 per distribution during the navigation season, provided there were sufficient funds available to effect full payment, and the undistributed surplus was to be divided during the winter season as determined by the Board of Directors.

(c) *Establishment of Sharing Rights*

The method used here is not at all the same as in the Quebec District. Sharing turns are not used and sharing rights are established on the basis of despatching turns. Despatching turns used to commence at zero for all pilots on the first day of the Corporation's fiscal year, notwithstanding the actual number of turns each pilot had to his credit on the last despatching list. By an amendment dated Sept. 9, 1969, credit is now given to those who on account of their rank on the tour de rôle had done a few more turns than others with equal availability. Those with two turns below the average start at zero on the new list; those with one turn below the average start with one turn; those with the average start with two turns; and those with turns over the average are given, in addition to the two turns for the average, the number of turns they had over the average (By-law No. 2 subsec. 5(b)).

Two factors determine whether a pilot will receive a full share and, if not, what will be his portion of a full share: grade and availability for duty.

Up to 1969, Grade A and Grade B pilots were both entitled to a full share and Grade A's received prior to distribution their bonus for each Grade A assignment performed (subsec. 9(b)). A full share for pilots Grades C.1, C.2 and C.3 was respectively 65%, 75% and 85% of the full share of Grade A or B pilots. The Sept. 1969 amendment abolished the bonus for Grade A pilots and established the value of a full share in relation to the full share of the Grade A pilot, i.e., Grade A, 100%, Grade B, 92%, Grade C.3, 78%, Grade C.2, 69% and Grade C.1, 60%.

The effect of availability on a pilot's share is determined by a combination of the assignment list and the type of turns credited to each pilot since the previous distribution.

At the end of each day, all pilots should have the same number of turns on the despatching list, plus or minus one or two. For those with constant availability, any difference is accounted for by the fact that occasionally certain pilots perform no assignment because of the particular demand for pilotage services and their place on the tour de rôle. The difference in number



of turns can never become larger than one or two because of the equalization process, as would otherwise occur in a strict tour de rôle in view of the unequal duration of trips.

The number of turns of those who have been absent are brought to parity with those who were available for duty in order to prevent the absentees from equalizing. This is done by calculating daily the average number of turns performed by those who were available for duty. This average is established separately for each sector by dividing the number of turns actually performed on that day by the number of pilots who were available for duty; the resulting average is always a fraction of a turn—larger in peak periods and smaller in low periods (subsec. 5(c)). The number of turns credited during a period of absence through such daily averages is adjusted by the Secretary-Treasurer to the nearest turn or half-turn (subsec. 10(e)). There are exceptions to this rule where the absentees will be credited a pre-determined number of turns which will be, in effect, either a reward or a punishment depending whether the turns so granted carry sharing rights or not. For instance, a day or a fraction of a day for a Director or member of a committee on Corporation duty counts for one full turn (sec. 4); one turn is credited for the first day of each absence which is not covered by a special provision in the by-laws but for the rest of the absence only the average is credited. For regular holidays the number of turns fixed by the Board of Directors is credited—for a six-day holiday this has been three turns and is, therefore, approximately the average.

The actual share of a pilot in any distribution is calculated by deducting from the full share the value of the full or fractional turns that do not carry sharing rights (vide p. 794). Up to 1965, the value of a turn for such deduction was established in the form of an average value by dividing the aggregate value of the pilotage dues earned during the pooling period (i.e., since the last distribution) by the number of turns performed by all the pilots.

In 1965, the method of establishing the average value of a turn was changed by basing it on the average value of turns during the preceding fiscal year computed by dividing the aggregate trip dues earned during that year by the aggregate number of turns performed by all the pilots.

The 1969 amendment to the pooling by-law was aimed *inter alia* at correcting the lack of equity in the system which resulted in newly appointed pilots sharing in pilotage earnings to which they had not contributed. The new subsection 12(b) now provides that members share only in revenue earned after they become members of the Corporation. The Secretary-Treasurer is required to make the necessary adjustment at the last distribution of the financial year.

## COMMENTS

The rules governing the operation of this pooling system are very complex. The confusion is compounded by the multiple amendments made almost every year in an effort to make it more equitable. But an equitable pooling will never be achieved in this way since the system itself is basically wrong; a new system must be devised to place both sharing rights and the value of shares on the same basis, i.e., dues earned and availability for duty during the pooling period.

(d) *Pilotage Income*

What constitutes the pilots' income from pilotage is a matter of semantics (Part II, pp .132 and ff.). Since the status of the Montreal river pilots is quasi-employees, their pilotage remuneration may be said to consist of the money which is paid them periodically by their Corporation ("take home pay"). This comprises the non-pooled pilotage dues they have earned and which are paid to them after deducting the compulsory contribution to the Pension Fund, their share of the pooled funds, payments made on their behalf such as their contribution to the Pension Fund, to the Quebec compulsory pension plan, premiums to their various group insurances, Federation dues and assessments and, finally, their share of their Corporation and group expenses. Since they, like the pilots in the Quebec District, pay the cost of their land transportation—even when they transfer from one station to another—it is necessary to deduct from the money they receive the aggregate cost of such transportation so that their remuneration can be compared with the amount received by the pilots in other Districts who are reimbursed such expenses. No record of these disbursements has been kept but they have been estimated to average \$1,600 per pilot annually. For the Commission's attitude to this practice, vide. p. 786.

For the years 1955 to 1968, the full share from the pool of Grade A and Grade B pilots was as follows:

1955.....	\$ 8,205.00	1962.....	\$12,000.00
1956.....	8,710.00	1963.....	12,250.00
1957.....	9,030.00	1964.....	12,090.00
1958.....	8,665.00	1965.....	13,050.00
1959.....	9,415.00	1966.....	16,050.00
1960.....	11,065.00	1967.....	16,000.00
1961.....	11,015.00	1968.....	15,475.00

In addition, for the years 1966, 1967 and 1968, the \$158.40 premium of the Quebec Pension Plan was paid on behalf of each pilot.

In addition to his share from the common pool, each pilot received the non-pooled items of revenue that he earned personally, and the Grade A pilots received their Grade A bonuses. The following table shows for the same period the aggregate of Grade A bonuses and non-pooled earnings and the number of pilots to whom they were paid:

## MONTREAL RIVER PILOTS—GRADE A BONUS, NON-POOLED EARNINGS AND NUMBER OF PILOTS SHARING

Year	Total Pilots Sharing In Pool	Grade A Bonus		Seaway Charges and Movages		Detention		Cancellation		Transportation	
		pilots sharing	aggregate amount	pilots sharing	aggregate amount	pilots sharing	aggregate amount	pilots sharing	aggregate amount	pilots sharing	aggregate amount
1955.....	97	....	\$.....	96	\$53,107.50	96*	\$ 9,459.45*	....	\$.....	....	\$.....
1956.....	109	....	.....	107	59,800.00	107*	12,176.70*	....	.....	....	.....
1957.....	115	....	.....	113	31,175.00	111*	8,984.25*	....	.....	....	.....
1958.....	115	....	.....	113	7,470.00	106*	8,311.95*	....	.....	....	.....
1959.....	120	33	53,050.00	116	17,428.90	113	\$10,302.75	51	\$ 693.00	66	2,977.00
1960.....	125	32	48,625.00	117	16,529.25	114	14,380.20	71	1,089.00	63	4,071.00
1961.....	124	36	60,070.00	119	18,799.20	119	15,681.60	66	1,071.00	62	4,830.00
1962.....	125	39	64,345.00	117	17,115.75	118	12,115.80	43	585.00	60	4,827.00
1963.....	132	40	71,570.00	125	18,481.95	126	14,803.20	71	1,044.00	67	5,245.00
1964.....	128	36	63,460.00	119	22,761.02	123	18,255.60	65	873.00	64	5,747.90
1965.....	135	47	71,405.00	131	31,104.91	131	29,065.91	81	1,274.85	71	6,693.30
1966.....	138	57	90,275.00	132	34,426.95	136	38,257.17	95	1,665.45	75	8,428.44
1967.....	143	67	94,395.00	133	24,731.85	141	41,929.04	84	1,512.72	74	7,443.60
1968.....	149	76	100,475.00	139	22,436.08	143	48,031.51	76	1,010.16	77	7,594.50

\*Detention and cancellation figures combined.

SOURCE: Ex. 785.



The sudden drop in 1957 and 1958 in the aggregate amount of revenue derived from movages is due to the creation of the harbour pilots group who took over from the river pilots the movage assignments in the harbour of Montreal. The Seaway charge was introduced in 1959 and the amount it yielded was included in the financial statistics with movage revenue, thus confusing the picture (vide p. 783).

As in Quebec, this method of remuneration produces appreciable differences between the remuneration of the various pilots each year. Low income results because of lower grade, or because the pilot concerned was not on strength for the whole of the year or was absent. The table on p. 804 shows for each year 1955-1968 the number of pilots whose remuneration fell in the various thousand dollar brackets. Each underlined figure indicates the thousand dollar bracket in which the average net remuneration per year pilot falls.

In the Montreal District up to 1961, the river pilots also received extra unofficial revenue derived from the remuneration of the second pilot in winter and the bonus paid by companies to their special pilots. There is no record of the amounts so paid and they were not shared. It would appear that the average of \$1,500 per pilot estimated for the Quebec pilots would also apply here.

The large undistributed balance and unshared earnings at the end of each fiscal year, referred to in the Corporation financial statements as the Corporation Fund (e.g., on Dec. 31, 1967, it amounted to \$474,130.12, vide p. 692), falsifies the pilots' true earnings. In order to correct this, and for the other reasons mentioned on p. 491, the table p. 805 was compiled on a basis to indicate average remuneration per year pilot with no consideration for grades. The earnings shown comprise all pilotage earnings, i.e., pooled and non-pooled earnings. The comments on p. 493 apply *mutatis mutandis*.

## (2) HARBOUR PILOTS

### (a) *Method of Remuneration and Pooling System*

Sec. 46 of the District By-law provides that the harbour pilots are to be remunerated through a pooling system based on availability for duty and operated by the Pilotage Authority. The factual situation, however, is quite different: although the pilots are remunerated through a pooling system, it is one they have devised themselves and which is administered by their Corporation (vide pp. 697 and ff.).

The pooling procedure they actually follow makes their pooling system most equitable and relatively simple. The only drawback (which has little importance on account of the small amounts involved) is the method they

## MONTREAL RIVER PILOTS—COMPARATIVE ANALYSIS OF INCOME BRACKETS\*

"Take Home" Net Income Bracket	Number of Sharing Pilots													
	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
\$19-20,000	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	8	2	.....
18-19,000	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	28	31	1
17-18,000	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	24	25	63
16-17,000	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	41	39	26
15-16,000	.....	.....	.....	.....	.....	.....	.....	.....	1	1	29	9	10	28
14-15,000	.....	.....	.....	.....	.....	.....	.....	23	31	30	18	6	4	1
13-14,000	.....	.....	.....	.....	.....	10	18	10	3	3	50	1	13	5
12-13,000	.....	.....	.....	.....	2	18	17	53	51	62	8	1	3	7
11-12,000	.....	1	.....	.....	24	61	57	12	9	8	8	10	.....	4
10-11,000	1	8	3	.....	9	7	5	3	10	6	6	1	6	1
9-10,000	29	55	92	2	64	7	6	8	5	8	.....	1	1	1
8-9,000	53	28	8	101	8	4	5	3	8	3	1	1	7	2
7-8,000	6	9	2	6	4	5	5	4	2	.....	.....	.....	.....	1
6-7,000	2	1	6	1	1	3	3	5	1	.....	8	.....	.....	.....
5-6,000	2	.....	2	1	1	1	1	2	1	2	3	4	1	3
4-5,000	2	5	.....	.....	.....	.....	.....	.....	2	1	.....	.....	1	1
3-4,000	1	.....	.....	.....	.....	.....	1	.....	.....	.....	1	.....	.....	1
2-3,000	.....	1	1	2	.....	3	1	2	3	.....	.....	.....	.....	2
1-2,000	.....	1	.....	.....	4	3	4	.....	3	1	1	1	.....	2
0-1,000	1	.....	1	2	3	3	1	.....	2	3	2	2	.....	.....
Total Number of Sharing Pilots	97	109	115	115	120	125	124	125	132	128	135	138	143	149

\*Before taxes and personal deductions, but after Pension Fund compulsory contributions and group expenses including share of Corporation expenses, CMSG fees and Pilots' Federation dues.

SOURCE: Ex. 785.

## MONTREAL RIVER PILOTS—AVERAGE REMUNERATION PER YEAR PILOT

Year	Share of Total Revenues Accruing to Pilots		Share less Contribution to Pension Fund		Share less Pension Fund Contribution and Association or Corporation Administrative Costs		Share of Administrative Cost per Year Pilot in Per Cent
	Amount	% Increase or decrease since 1955	Amount	% Increase or decrease since 1955	Amount	% Increase or decrease since 1955	
1955.....	\$ 9,167.23	.0%	\$ 8,192.39	.0%	\$ 7,963.52	.0%	1.0%
1956.....	9,600.67	4.7	8,582.21	4.8	8,334.92	4.7	.9
1957.....	8,916.27	-2.7	7,981.66	-2.6	7,610.83	-4.4	.9
1958.....	9,196.69	0.3	8,240.79	0.6	7,855.62	-1.4	.9
1959.....	11,524.96	25.7	10,306.72	25.8	9,874.20	24.0	.9
1960.....	11,632.75	26.9	10,457.42	27.6	8,937.44	12.2	.8
1961.....	11,812.63	28.9	10,589.57	29.3	9,155.55	15.0	.8
1962.....	13,158.88	43.5	11,808.49	31.9	10,289.49	29.2	.7
1963.....	14,364.64	56.7	13,057.71	59.4	11,525.87	44.7	.7
1964.....	15,616.13	70.3	14,039.52	71.4	12,584.17	58.0	.8
1965.....	17,765.34	93.8	15,997.00	95.3	n/av.	n/av.	n/av.
1966.....	19,398.76	111.6	17,613.89	115.0	n/av.	n/av.	n/av.
1967.....	17,981.61	96.1	16,182.97	97.5	n/av.	n/av.	n/av.
1968*	16,053.73	75.1	14,380.72	75.5	12,735.70	59.9	.7

\*Due to a change in the financial year to make it end Nov. 30, 1968 consisted of only 11 months.

SOURCES: Tables on pp. 620 and 694, and Ex. 785 (Schedule "A").



have adopted for paying the pilots their shares based on dues earned during the pooling period. Payments are effected as the dues outstanding at the end of the pooling period are collected and, hence, a small portion of the shares remain unpaid, even for a number of years. This has the theoretical advantage of simplicity in bookkeeping to handle bad debts because these can be written off by debiting the shares for that pooling period *pro rata*. In practice, however, this advantage is very minor since the incidence of bad debts is minimal. For details and incidence of accounts written off, see Table, pp. 816-7.

The pooling period extends over the calendar year with an advance distribution every fortnight during the navigation season. The amount of the shares is established at the end of the year in relation to the work the pilots have done and the dues earned during the pooling year (p. 697).

This practice, however, is at variance not only with the provisions of the District By-law but also with the unwritten pooling rules. It is obvious that these rules were copied from the Montreal river pilots' unsatisfactory system. Rather than try to correct the situation by amending the pooling rules, the harbour pilots merely followed a more equitable procedure without reflecting it in their written rules. This practical solution has not created any problem because of the small number of pilots, the fairness of the system and the complete and very clear accounting the pilots are given of pooling operations (pp. 696 and ff.). However, the situation should be corrected, at least by rewriting the pooling rules to conform with the practice being followed.

The rules which are purported to define the pooling system and govern its operation are contained in By-law No. 3 of the Corporation as amended, By-law No. 6 approved by the Secretary of State on August 13, 1963, being the most recent amendment. Re the legality of such by-laws, vide Part I, pp. 89 & ff. Their main features are:

- (i) They purport to give the Corporation complete control over the pilots' earnings and the pilots have no right to intervene as individuals.
- (ii) All pilotage dues earned by the pilots or paid under the compulsory payment system form part of the common fund to be shared among the pilots, with the exception that dues paid on account of detention or bonuses paid in addition to pilotage dues, as provided in the tariff, belong to the pilots who earned them. To date, the only non-pooled revenue has been detention earnings.
- (iii) Collection costs are to be pro-rated on all money collected whether belonging to the pool or not. This provision has no application at present since collections are made by the Pilotage Authority.

- (iv) The By-law provides that the sharing rights of each pilot are to be based on work done in accordance with the turn system but does not state the basis on which the value of the turn is to be calculated. The procedure followed is to determine the value on the basis of dues earned (and not collected) during the pooling period. In fact, the By-law provides only for periodical final distributions, the amount being left to the discretion of the Board of Directors, but this procedure is not followed.
- (v) The share of a probationary pilot is two-thirds the share of a permanent pilot.
- (vi) Turns missed on account of unavailability for duty and credited for despatching purposes so as to prevent the equalization procedure from applying (pp. 724 and ff.) do not carry sharing rights except in one case, i.e., administrative free turns granted the Directors are one turn for each day or fraction of a day of absence. The ensuing loss of earnings for turns lost during absence due to illness or injury is compensated in part in two ways:

—If a pilot wishes to equalize he may do so, but to a maximum of fifteen days of such absences per navigation season (p. 725).

—The pilots have taken out group insurance coverage (p. 819) which, *inter alia*, provides indemnity for loss of salary from the seventh day of absence due to illness and from the first day if due to injury, whether or not attributable to the service.

The method of accounting for pooling operations clearly reflects the true situation (pp. 700-701).

#### COMMENTS

There is no valid reason why the harbour pilots did not adopt a complete pooling system comprising all pilotage earnings and based on availability for duty. The only explanation seems to be the influence of environment: they adopted the system of their immediate colleagues, the other St. Lawrence River groups. As seen above, they even copied the deficient pooling rules of the Montreal river pilots but do not follow them.

Another pretext may have been the fact that, according to the District By-law, their despatching was to be governed by the equalization of trips principle. This was not a serious obstacle for the Pilotage Authority would have amended the By-law in this regard if the harbour pilots had so requested, especially in view of the discriminatory consequences resulting from its present application, i.e., cancellations and movages count equally for one turn, irrespective of the duration and length of the latter.

**(b) Pilotage Income**

Because of their status as quasi-employees, the remuneration ("take home pay") of the harbour pilots (like the river pilots, p. 801) may be defined as revenue received from the pool, i.e., their share of the pool and payments made from it on their behalf—group insurance premiums, Federation dues and assessments, Canadian Merchant Service Guild membership dues and their share of Corporation and group expenses—plus any non-pooled dues they have earned. There are no deductions for either Pilot Fund or Pension Fund.

The harbour pilots are not reimbursed for land transportation expenses incurred travelling to and from movage assignments. The Commission possesses no information to establish the extent of such expenses even approximately but it can be assumed that they are substantially less than those of the river pilots since the harbour pilots' sphere of operations does not extend beyond the city side of the harbour, except for St. Lambert lock.

For several years all the harbour pilots have been entitled to a full share of the pool. There are three reasons:

- except for newly licenced pilots during their one-year probationary period, there are no grades;
- the only retirement from their group occurred in 1969 and there was no replacement;
- there is practically no absenteeism.

The following table shows for the years 1959—1968 the number of pilots sharing, the number who obtained a full share and the amount of such full share.

Year	Total Pilots Sharing	Pilots Receiving Full Share	Amount of Full Share
1959.....	16	12	\$13,558.40
1960.....	16	16	9,968.83
1961.....	16	14	11,244.35
1962.....	16	16	11,788.89
1963.....	16	16	12,183.96
1964.....	16	16	14,715.73
1965.....	18	15	15,701.94
1966.....	20	16	15,738.33
1967.....	20	16	13,575.60
1968.....	20	20	11,900.02

SOURCE: EX. 802.

The only non-pooled item of revenue is the amount derived from detention charges: each pilot receives dues from this source earned during movages he performed.



The aggregate detention revenue for each year (of which each pilot received a different fraction) was as follows:

1959.....	n/av.	1964.....	\$16,128.00
1960.....	\$ 9,952.00	1965.....	20,905.13
1961.....	6,549.00	1966.....	20,973.45
1962.....	6,942.00	1967.....	20,724.38
1963.....	7,583.00	1968.....	19,688.53

Because there are no grades there is little difference from year to year in the aggregate amount each pilot receives from the pool and from non-pooled sources, as is clearly evident from the following table which shows for the years 1959—1968 the number of pilots whose remuneration fell in the various thousand dollar brackets. Each underline indicates the thousand dollar bracket in which the average net remuneration per year pilot falls, vide p. 803.

MONTREAL HARBOUR PILOTS—COMPARATIVE ANALYSIS OF  
INCOME BRACKETS\*

"Take Home" Net Income† Bracket	Number of Sharing Pilots									
	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
\$16-17,000.....							2	9		
15-16,000.....	12						13	7		
14-15,000.....						16	1	2	3	
13-14,000.....									14	
12-13,000.....				1					3	15
11-12,000.....		16	15	15	16					5
10-11,000.....			1							
9-10,000.....										
8- 9,000.....										
7- 8,000.....										
6- 7,000.....										
5- 6,000.....	1									
4- 5,000.....							1	2		
3- 4,000.....							1			
2- 3,000.....	2									
1- 2,000.....	1									
0- 1,000.....										
Total Number of Sharing Pilots.....	16	16	16	16	16	16	18	20	20	20

\*Before taxes and personal deductions, but after compulsory contributions to insurances and group expenses, including share of Corporation expenses, CMSG fees and Pilots' Federation dues.

† During the years 1959-1963, detention and other unpooled items paid directly to pilots were shown only as a lump sum payment without listing separately the actual amount paid to each pilot; as these are part of a pilot's "take home" taxable income, they have been prorated: 1959-1963, detention; 1959-1960, reimbursable expenses; 1959, movages and cancellations; 1961, free moves.

SOURCES: Tables pp. 621 and 701 and Ex. 802.

The table p. 811 shows the average remuneration of the pilots according to the principal meaning given to the term (p. 491) calculated on the aggregate amount of pilotage earnings accruing directly or indirectly to the pilots, on the basis of *year pilot*. The resultant average figures correspond very closely to the actual remuneration most pilots draw, since their share in the pool is based on the full amount of dues earned, and also because most of them receive a full, equal share.

#### COMMENTS

Since the pilots' remuneration is based on dues paid by ships, their level of remuneration has been greatly affected in recent years by the numerous strikes which interfered with Seaway traffic (the source of their principal demand for services), despite the substantial increase in rates they obtained through the 1967 general surcharge increase from 15 to 21 per cent. This is the main weakness of such a method of remuneration. In 1969, the pilots succeeded in obtaining two corrective measures: another substantial increase in rates (the surcharge was raised from 21 to 39.15 per cent), and a decrease in strength from 20 pilots to 19 (5 per cent).

The Commission considers that this insecurity of income is detrimental to the service and that a new system should be adopted (vide Part I, pp. 137 and ff. and Gen. Rec. 21, pp. 528—531).

### 8. DISTRICT FINANCIAL ADMINISTRATION

#### PREAMBLE

Financial administration in the District of Montreal is conducted along the same general lines as in the District of Quebec. The main differences in the applicable legislation are:

- (a) While sec. 328 C.S.A. applies to the District of Montreal and, therefore, makes it possible for the District to be financially independent and self-supporting, no part of the District's operating expenses are paid out of pilotage dues or licence fees, as is the case in all other Districts where the Minister is the Pilotage Authority.
- (b) District operating expenses are assumed by the public through the Department of Transport and expenditures are authorized in the annual estimates of the Department.
- (c) The Authority bills for, and collects, pilotage dues without charge to the pilots and acts only as trustee. It has no funds or assets of its own.
- (d) The Department of Transport provides portable VHF radiotelephone sets to the pilots without cost when required by the device of increasing pilotage dues to cover the expense of such service in the case of ships not so equipped.

## MONTREAL HARBOUR PILOTS—AVERAGE REMUNERATION PER YEAR PILOT

Year	Share of Total Revenue Accruing to Pilots		Share less Contribution to Insurance		Share less Association or Corporation Administrative Costs		Share of Year Pilot Administrative Cost per in Per Cent
	Amount	% Increase or decrease since 1959	Amount	% Increase or decrease since 1959	Amount	% Increase or decrease since 1959	
	\$		\$		\$		
1959.....	15,268.96	0	14,906.47	0	14,460.00	0	7.2
1960.....	11,971.41	-21.6	11,516.95	-22.7	11,151.94	-22.9	6.2
1961.....	12,434.14	-18.6	12,031.99	-19.3	11,655.70	-19.4	6.2
1962.....	12,610.77	-17.4	12,145.59	-18.5	11,598.99	-19.8	6.3
1963.....	12,657.89	-17.1	12,116.73	-18.7	11,298.86	-21.9	6.2
1964.....	15,728.57	3.0	15,200.43	2.0	14,389.34	-0.5	6.3
1965.....	17,287.29	13.2	16,741.15	12.3	16,086.30	11.2	5.9
1966.....	17,079.68	11.9	16,522.51	10.8	15,923.26	10.1	5.3
1967.....	14,897.94	-2.4	14,311.72	-4.0	13,724.35	-5.1	5.0
1968.....	13,417.81	-12.1	12,833.73	-13.9	12,118.77	-16.2	5.0

SOURCES: Tables on pp. 620 and 701, and Ex. 802.



- (e) Neither the pilots nor the Pilotage Authority has any responsibility for furnishing pilot vessel service anywhere in the District. This service is provided the pilots free of charge following a general agreement reached by the Shipping Federation of Canada on behalf of ship owners with the launch owners who provide vessels at the various boarding areas, i.e., Quebec, Trois-Rivières, Lanoraie and Longue-Pointe. Pilot vessel charges are not considered pilotage dues: hence, they are not collected by the Pilotage Authority but directly by the launch owner concerned.
- (f) The District By-law does not fix the river pilots' mode of remuneration but provides that the aggregate dues collected, without differentiating whether for services rendered or on account of the compulsory payment system, are to be paid by the Pilotage Authority to the Pilots' Association (now defunct) after deducting the radiotelephone rental charges and the compulsory contribution to the river pilots' Pension Fund, both of which are to be forwarded to the Chief Treasury Officer of the Department of Transport (By-law, sec. 21).
- (g) The By-law establishes the harbour pilots' mode of remuneration and requires the District Supervisor to pool all pilotage earnings, including those resulting from the compulsory payment system, to compute the share of each pilot at the end of each month on the basis of time worked and to pay each pilot such share (By-law, sec. 46); as seen earlier, no heed is taken of this provision and the same procedure as for the river pilots is followed by the Pilotage Authority.

Re the cost to the Government of operating pilot stations, reference is made to the study by the Commission's consulting accountants in Part I of the Report, Appendix IX. The share of the cost attributed to the Montreal District in 1965 was \$167,000 discounting the cost of the Marine Reporting Service which has now been replaced by the more sophisticated and more expensive Marine Traffic Control System whose cost is no longer shown as a pilotage expense.

A new item of cost to the Government has been added since 1966 by providing the pilots VHF portable radiotelephone sets. Apart from the cost of repairs and maintenance for which no details are available, the capital expenditure on this account for the District of Montreal as of December 31, 1968,

was \$101,400 including depreciation, of which the Government recovered \$77,360 in rental dues up to that date. The details are as follows:

Year	Cash Expenditure	Rental Dues		
		River Pilots	Harbour Pilots	Total Receipts
	\$	\$	\$	\$
1966.....	24,300	14,695	575	15,270
1967.....	31,300	29,765	770	30,535
1968.....	18,000	29,965	1,590	31,555
Total.....	\$73,600			\$77,360

SOURCES: Exs. 534(b) and 1295.

The method of collecting the pilotage dues and the accounting procedure are the same as described on pp. 495-498.

The table pp. 814-15 shows the amounts written off as bad debts 1958-1968 and the percentage they formed of the aggregate earnings for 1957. It also shows the earnings which at the end of each year had been outstanding for more than twelve months as well as the current earnings not received at that date.

The table pp. 816-17 contains similar information for the harbour pilots since their formation in 1957.

As in the District of Quebec, the Authority's annual reports, which purport to be annual financial statements of the Pilotage Authority, are nothing more than a series of details relating to pilotage money and are included in the reports mainly for statistical purposes.

The Pilotage Authority's annual statement reflects the practical organization that has resulted from the Minister being the Pilotage Authority of the adjacent Districts of Montreal and Cornwall, both administered from Montreal by the same Supervisor and staff. The annual reports cover the situation with regard to the three groups of pilots, i.e., the Montreal river pilots, the Montreal harbour pilots and the Cornwall pilots, as if they were all in the same District, and a chapter is devoted to each group.

The table p. 818 shows for the period 1955-1968 the total amount of earned dues that were payable directly or indirectly to the Montreal river pilots. It does not include the radiotelephone rental charges, which accrue to the Receiver General of Canada when collected, or the negligible aggregate fines imposed on pilots, which accrue to the Pension Fund.

## MONTREAL RIVER PILOTS—BAD DEBTS AND CURRENT ACCOUNTS UNPAID

Year	Navigation Season	Written Off		Outstanding as at December 31			
				Over One Year		Current Year	
		Amount per Season	% of Pilotage Earnings	Amount per Season	Total Amount	% of Pilotage Earnings	Total Amount
1958.....	1957	\$ 121.42	0.01%	\$ 579.00	\$ 579.00	0.1%	\$26,237.09
1959.....	1957	50.00	0.08	70.00	70.00	0.01	73,686.08
1958.....	1958	1,103.64		—			
1960.....	1957	35.00	0.002	—	3,958.79	0.3	46,375.93
1959.....	1959	—		3,958.79			
1961.....	1959	120.00	0.01	2,928.46	3,958.39	0.2	62,798.38
1960.....	1960	38.82		1,029.93			
1962.....	1959	171.88	0.03	2,756.58	4,243.95	0.2	62,419.08
1960.....	1960	216.21		813.72			
1961.....	1961	129.58		673.65			
1963.....	1959	212.43	0.02	2,544.15	4,031.52	0.2	110,826.95
1960.....	1960	—		813.72			
1961.....	1961	—		673.65			
1962.....	1962	190.49		—			



1964.....	1959	2,544.15	—	813.72	—	—	—
	1960	—	—	556.40	—	—	—
	1961	—	0.1	390.56	—	—	—
	1963	3.24	—	—	1,760.68	0.1	84,747.84
							4.4
1965.....	1960	—	—	813.72	—	—	—
	1961	—	—	556.40	—	—	—
	1963	—	0.001	390.56	—	—	—
	1964	18.50	—	1,997.37	3,758.05	0.2	186,221.92
							8.1
1966.....	1960	—	—	813.72	—	—	—
	1961	—	—	556.40	—	—	—
	1963	—	0.03	390.56	—	—	—
	1964	—	—	1,497.25	—	—	—
	1965	690.64	—	827.09	4,085.02	0.2	177,782.30
							6.9
1967.....	1960	—	—	608.46	—	—	—
	1961	—	—	—	—	—	—
	1963	1,205.22	0.1	390.56	—	—	—
	1964	—	—	521.87	—	—	—
	1965	—	—	—	—	—	—
	1966	—	—	596.35	2,117.24	0.1	269,035.78
							10.7
1968.....	1966	—	—	772.63	—	—	—
	1967	—	—	733.24	1,505.87	0.1	237,915.08
							9.7
Total Written Off.....		\$6,851.22					

SOURCE: Ex. 785.

## MONTREAL HARBOUR PILOTS—BAD DEBTS AND CURRENT ACCOUNTS UNPAID

Year	Navigation Season	Written Off		Outstanding as at December 31			
				Over One Year		Current Year	
		Amount per Season	% of Pilotage Earnings	Amount per Season	Total Amount	% of Pilotage Earnings	Total Amount
1960.....	Previous } 1959	\$ 684.00	0.4%	\$ 803.00	\$ 856.00	0.5%	
1961.....	1959 } 1960	182.00	0.1	556.00 105.00	661.00	0.3	13,627.00
1962.....	1959 } 1960 } 1961	110.00	0.1	n/av. n/av. n/av.	632.00	0.3	6,756.50
1963.....	Previous } 1962	48.88	0.02	n/av. n/av.	n/av.	—	n/av.
1964.....	Previous } 1963	41.00	0.02	—	—	0.0	20,156.75
1965.....	1964	64.00	0.02	236.00	236.00	0.1	36,731.10
							12.6

1966.....	1964	—	—	199.50					
	1965	33.00	0.01	500.50					
					700.00	0.2	13,920.40	4.3	
1967.....	1964	—	—	112.50					
	1965	—	—	286.00					
	1966	—	—	109.25					
					507.75	0.2	25,608.08	8.6	
1968.....	1964	—	—	—					
	1965	286.00	0.1	—					
	1966	—	—	36.80					
	1967	—	—	297.66					
Total Written Off .....		<u>\$1,448.88</u>			334.46	0.1	39,310.43	14.7	

SOURCE: Ex. 802.



### MONTREAL RIVER PILOTS

Year	Gross Pilotage Earnings	% Increase since 1955
1955.....	\$ 981,876.62	0%
1956.....	1,136,223.78	15.7
1957.....	1,120,384.78	14.1
1958.....	1,142,768.57	16.4
1959.....	1,530,617.06	55.9
1960.....	1,494,712.75	52.2
1961.....	1,589,814.54	61.9
1962.....	1,735,275.56	76.7
1963.....	1,781,657.37	81.5
1964.....	1,925,391.60	96.1
1965.....	2,296,521.83	133.9
1966.....	2,578,496.28	162.6
1967.....	2,523,324.19	157.0
1968.....	2,462,940.13	150.8

SOURCE: Ex. 534(b).

The following table is on the same basis, except that it refers to the pilotage dues that were payable directly or indirectly to the harbour pilots. It includes neither the radiotelephone rental charges nor fines imposed on harbour pilots, which, because they have no pension fund, are paid to the Receiver General of Canada according to sec. 708 C.S.A.

### MONTREAL HARBOUR PILOTS

Year	Gross Pilotage Earnings	% Increase since 1958
1957.....	\$ 46,351.00	*
1958.....	113,458.00	0%
1959.....	216,172.50	90.5
1960.....	191,542.50	68.8
1961.....	199,013.02	75.4
1962.....	201,769.25	77.8
1963.....	202,187.37	78.2
1964.....	251,623.75	121.8
1965.....	292,091.28	157.4
1966.....	322,647.83	184.4
1967.....	298,523.42	163.1
1968.....	268,356.13	136.5

\*The percentage increase is based on the 1958 figures because 1957 is not a representative year since it was a period of organization and the harbour pilots were not in actual operation until the concluding months.

SOURCE: Ex. 534(b).

## 9. PENSION FUND

The Montreal harbour pilots as a group do not yet have the advantage of a plan which provides them with pension or retirement benefits but they have certain protection that would pertain to a pilot fund through a group insurance policy (Ex. 805) which guarantees a monthly indemnity for loss of earnings due to illness or injury, a special benefit for loss of earnings if a licence is withdrawn due to physical unfitness, major medical coverage and a \$10,000 death benefit doubled in case of accidental death.

The Montreal river pilots possess the second oldest Pilot Fund in Canada. It was created as a separate entity in 1812 when the joint Decayed Pilot Fund created in 1805 for the benefit of all the pilots on the St. Lawrence River was divided to form a separate fund for "the pilots for and above the Harbour of Quebec". By contrast with the Quebec pilots, the Montreal pilots were never legally entitled to the trusteeship and the management of their Pilot Fund and these were always exercised by the Pilotage Authority. The Montreal Pilot Fund ceased to be governed by its own statutory provisions when the last provisions of exception concerning it disappeared in 1934 with the abrogation of sec. 484, 1927 C.S.A., thus placing the Fund completely under the provisions of general application of the Canada Shipping Act. For the study of these provisions of general application, reference is made to Part I, pp. 438-447.

Pursuant to sec. 366, 1934 C.S.A., the Fund is under the joint trusteeship of the Minister of Transport and the Minister of Finance. Apart from the applicable statutory provisions, it is governed by the regulations made by the District Pilotage Authority under subsec. 319(*l*), 1934 C.S.A. and 329(*m*) C.S.A., the last series of which were confirmed by the Governor in Council by P.C. 1955-29/1712 on November 16, 1955, and by sec. 21 of the District General By-law which provides for the collection of compulsory contributions. The full cost of administering the Fund is assumed by the Government.

The sources of revenue of the Fund are compulsory contributions, investment revenue and fines imposed on the river pilots. By contrast with the policy followed in the District of Quebec, the revenue paid on account of the compulsory payment system does not accrue to the Pension Fund but is paid with other pilotage earnings, after deduction of the 10 per cent compulsory contribution to the Pension Fund, to the pilots through their organization for distribution as part of their remuneration. The interest yielded on investments has shown a marked increase since 1957 when a new investment policy was adopted at the pilots' instigation. The revenue from fines is minimal.

A pilot is entitled to pension benefits when his retirement takes place not earlier than age 65, except when an earlier retirement is due to physical or mental unfitness. Subsec. 329(*i*) C.S.A. states that the age of 65 is

the normal pension age. A pilot has the right to remain on active service until he reaches the ultimate retirement age of 70, provided he remains physically fit. It is reported that prior to 1954 the majority of retirements took place at or about the age of 65 and practically all the pilots who retired at an earlier age did so for medical or similar reasons. Since then, however, a tendency has developed for pilots to remain in the service up to the age of 70, a practice of obvious financial advantage to both the pilots and the Pension Fund.

Prior to 1954, pension benefits were a fixed amount for each year of service, a system which caused a substantial actuarial deficit. Since 1954, the amount of benefit is directly related to the pilot's own contributions to the Fund, except for a minimum pension of \$1,250 per annum.

In the case of an earlier retirement due to physical or mental disability, the pilot is entitled to the pension then accrued to him and to the same guaranteed minimum. For a forced retirement on account of a shipping casualty, the pilot is entitled to the actuarial equivalent of a pension accrued to him on the date of his retirement. For a forced retirement due to misconduct or use of alcohol or drugs, and in the case of a voluntary retirement before reaching a normal pension age, the pilot is merely reimbursed his contributions to the Fund.

The pension benefits of a pilot's widow are half his pension but not less than \$650 per year, which ceases to be payable in case of remarriage. The children of a deceased pilot receive no pension benefit if their mother receives a pension, otherwise the children under 18 receive the pension their mother would have been entitled to and share it among themselves. If there is only one child, the pension is half what his mother would have been entitled to. Of all the pension schemes in Districts where the Minister is the Pilotage Authority, this is the only one where the children of a deceased pilot are not entitled to receive pension benefits as long as the mother receives them.

The trusteeship and administration of the Pension Fund are the responsibility of the Minister of Transport and the Minister of Finance. Up to 1960, they made investments without consulting the pilots. Since 1960, the pilots have taken considerable interest in the administration of their Pension Fund and the suggestions they have since made upon the advice of an investment consultant are generally being followed. They have succeeded in obtaining approval to extend the investment field beyond the limitations imposed by sec. 366, 1934 C.S.A., i.e., "Dominion bonds or other Government securities approved by the Governor in Council". Bonds from the provinces as well as bonds of federal and provincial Crown corporations were acquired. Investments in municipal corporations were denied (re details of portfolios for the years 1958/59-1965 inclusive, vide Ex. 533).



The shift from Federal Government bonds toward higher yielding provincial government securities, together with the new mode of determining benefits adopted in 1954, has gradually improved the financial standing of the Fund. The \$541,236.98 actuarial deficit of 1954 had been reduced to \$267,680 by 1959 and on December 31, 1963, was only \$75,166. The Commission's actuarial consultant, basing his study on a more realistic interest rate, reported an actuarial surplus of \$7,167 as of December 31, 1963 (the consultant's report is reproduced *in extenso* as App. XII of Part I).

The Pilots' Federation has recommended that the provisions of the Canada Shipping Act dealing with Pilot Funds should be abolished and that the question of pension plans be left to be decided by the pilots as a group through their Corporations. Their arguments in support are briefly that the present provisions of the Canada Shipping Act are too strict and outdated, especially the restrictions on investments. They also consider it abnormal that the pilots as a group are not entitled to devise and administer their own pension scheme.

Since the time of the Commission's hearings, the Montreal pilots have tried to have their Pension Fund transferred to their Corporation in the same way as this was done by the B.C. pilots (vide Part I, p. 453 and Part II, pp. 189-195). This has been agreed to in principle by the Department of Transport: as of Jan. 27, 1970, the proposed trust agreement and pension scheme were being studied by officials of the Departments of Transport and Finance (Ex. 1539(v)).

For a study of the legal situation of Pension Funds and the Commission's remarks and recommendations, vide Part I, C. 10, and Recommendation 39.

## Chapter D

For Recommendations affecting this District, see Section Five.

## Chapter E

# APPENDICES

### I. MONTREAL RIVER PILOTS

#### APPENDIX A

Shipping Casualties, Accidents and Incidents with a Montreal River Pilot on Board:

- (1) Table—Comparative statistical analysis during the ten-year period 1959-1968 inclusive.
- (2) Summary—Detailed analysis for the years 1965 and 1966.

#### APPENDIX B

- (1) Graphs—(a) June 1962 workload of Montreal river pilot J. B. Bélanger.  
(b) June 1963 workload of Montreal river pilot J. B. Bélanger.  
(c) June 1964 workload of Montreal river pilot J. B. Bélanger.
- (2) Tables—(a) Comparative detailed analysis of workload of pilot J. B. Bélanger for the month of June for the three-year period 1962, 1963 and 1964.  
(b) Comparative summary of workload of pilot J. B. Bélanger during the month of June for the three-year period 1962, 1963 and 1964.
- (3) Tables—(a) Comparative summary of workload of busiest pilot during busiest month for the three-year period 1962, 1963 and 1964.  
(b) Comparative summary of workload of busiest pilot during least busy month for the three-year period 1962, 1963 and 1964.

#### APPENDIX C

Trips by Montreal River Pilots Each Month during 1963-1968 Inclusive:

- (1) Graph—(a) Between Montreal and Trois-Rivières.  
(b) Between Quebec and Trois-Rivières.
- (2) Table—Aggregate number.

#### APPENDIX D

Montreal River Pilots—Comparative Analysis of Winter Navigation Trips:

- (1) Table—Total number of trips.
- (2) Table—Total full and half trips.
- (3) Table—Number of uninterrupted trips.
- (4) Table—Number of trips interrupted for night.
- (5) Table—Number of trips interrupted for ice.
- (6) Table—Number of trips interrupted for other than night or ice.
- (7) Table—Number of trips with vessel reinforced for ice.
- (8) Table—Number of trips with vessel not reinforced for ice.
- (9) Table—Comparative summary of winter navigation trips.



## II. MONTREAL HARBOUR PILOTS

### APPENDIX A

Shipping Casualties, Accidents and Incidents with a Montreal Harbour Pilot on Board:

- (1) Table—Comparative statistical analysis during the ten-year period 1959-1968.
- (2) Summary—(a) Detailed analysis for the year 1959.  
(b) Detailed analysis for the year 1968.

### APPENDIX B

- (1) Graph—June 1964 workload of Montreal harbour pilot J. J. Ménard.
- (2) Tables—(a) Analysis of workload of pilot J. J. Ménard for the month of June 1964.  
(b) Summary of workload of pilot J. J. Ménard for the month of June 1964.
- (3) Table—Comparative summary of workload of busiest pilot during busiest and least busy months for the three-year period 1962, 1963 and 1964.

### APPENDIX C

Trips by Montreal Harbour Pilots Each Month during 1963-1968 Inclusive:

- (1) Graph—Comparison during the years 1963-1968.
- (2) Table—Aggregate number during the years 1963-1968.

I. MONTREAL RIVER PILOTS

Appendix A (1)

COMPARATIVE STATISTICAL ANALYSIS OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS WITH  
A MONTREAL RIVER PILOT ON BOARD DURING THE TEN-YEAR PERIOD 1959-1968 INCLUSIVE

Details	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
<b>A. EVENTS WHILE NAVIGATING</b>										
<b>I. MAJOR CASUALTIES (with or without loss of life)</b>										
a. Loss or abandonment of ship.....	—	—	—	—	2*	—	2	1	—	—
b. Major strandings.....	—	—	—	—	—	—	1	1	1	1
c. Heavy damage to ships (other than above)....	—	1	2	—	1†	—	1	—	—	—
	—	—	—	—	3	—	4	3	1	1
<b>II. MINOR CASUALTIES (without loss of life)</b>										
a. Minor strandings.....	20	10	17	9	7	4	10	—	6	9
b. Minor damage to ships.....	2	6	11	5	3	6	2	—	2	1
	—	—	—	—	10	10	12	—	8	10
<b>III. ACCIDENTS (without damage to ships)</b>										
a. Damage to buoys.....	2	—	—	1	2	1	1	1	1	—
b. Other.....	1	—	—	—	—	—	—	—	1	—
	—	—	—	—	2	1	1	1	2	—
<b>IV. INCIDENTS (without any damage whatsoever)</b>										
a. Touching bottom in channel.....	1	13	7	9	5	15	14	10	13	11
b. Other.....	2	3	1	7	1	1	1	—	—	—
	—	—	—	—	—	—	—	—	—	—
	3	16	8	16	6	16	15	10	13	11
	—	—	—	—	—	—	—	—	—	—
<b>TOTAL EVENTS WHILE NAVIGATING..</b>	<b>28</b>	<b>33</b>	<b>38</b>	<b>31</b>	<b>21</b>	<b>27</b>	<b>32</b>	<b>14</b>	<b>24</b>	<b>22</b>

Appendix A (1)—Concluded

	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
<b>B. EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING SEAWAY</b>										
<b>I. MAJOR CASUALTIES (with or without loss of life)</b>										
a. Major strandings.....	—	1	—	—	—	1	—	—	—	1
b. Heavy damage to ship.....	—	—	—	—	—	—	—	—	—	—
<b>II. MINOR CASUALTIES (without loss of life)</b>										
a. Minor strandings.....	—	—	1	—	4	—	4	—	—	1
b. Minor damage to ship.....	—	—	—	—	—	—	—	—	—	—
i. Striking pier or installation.....	17	22	20	23	14	14	13	8	15	15
ii. Striking vessel berthing or unberthing.....	8	3	2	5	—	2	5	4	5	—
iii. Striking vessel at anchorage or lock.....	1	2	2	2	4*	1	—	3	—	—
iv. Other.....	2	1	2	3	2	3	4	3	—	—
	28	28	27	33	24	20	26	18	20	16
<b>III. ACCIDENTS (without damage to ships)</b>										
a. Damage to pier or installation.....	1	2	—	—	3	4	1	1	—	1
b. Damage to buoys.....	1	—	—	—	—	1	2	—	—	—
c. Other.....	—	—	—	—	—	1	—	1	—	—
	2	2	—	—	3	6	3	2	—	1
<b>IV. INCIDENTS (without any damage whatsoever)</b>										
a. Striking pier or installation.....	—	—	3	2	3	—	10	5	5	1
b. Striking vessel at pier.....	—	2	—	—	1	1	1	3	—	—
c. Striking vessel at anchorage or lock.....	—	—	—	—	—	1	—	—	—	1
d. Striking buoys.....	—	—	1	—	1	5	2	3	2	6
e. Other.....	—	—	—	—	—	—	4	—	—	—
	—	2	4	2	5	7	17	11	7	8
<b>TOTAL EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING SEAWAY.....</b>	30	33	31	35	32	34	46	31	27	26
<b>GRAND TOTAL.....</b>	58	66	69	66	53	61	78	45	51	48

SOURCE: Exhibit 1467.

\*During one of these events, a river pilot was on board one of the vessels and a harbour pilot on board the other.

†Three river pilots were involved: two on board one of the vessels and one on board the other.



## Appendix A (2)

### DETAILED ANALYSIS FOR THE YEARS 1965 AND 1966 OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS WITH A MONTREAL RIVER PILOT ON BOARD

The years 1965 and 1966 had, respectively, the greatest and least number of events in the past ten-year period. The details are as follows:

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1965

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#### A. EVENTS WHILE NAVIGATING

##### I. MAJOR CASUALTIES (with or without loss of life)

###### (a) *Loss or abandonment of ship*

1. April 10—*Transatlantic* and *Hermes* collided at eastern exit of Yama-chiche anchorage on Lake St. Peter—vide p. 727.
2. September 3—*Eastern Shell* and schooner *Mont Blanc* collided at Cap Lévrard during fog and latter vessel sank—vide p. 735.

###### (b) *Major stranding*

1. April 10—*Tore Knudson* at St. Augustin Shoal; caused by ice.

###### (c) *Heavy damage to ship* (other than above)

1. April 6—*Middlesex Trader* and *Prins Mauritz* collided at western end of St. Augustin Bar off St. Nicholas—vide p. 735.

##### II. MINOR CASUALTIES (without loss of life)

###### (a) *Minor strandings*

1. May 24—*Angelic* at Trois-Rivières; caused by pilot error—pilot reprimanded.
2. June 21—*Maren Maersk* at Trois-Rivières; caused by pilot error—pilot reprimanded.
3. June 24—*Charny* at Lotbinière; caused by steering gear failure.
4. July 25—*R. Bruce Angus* at Trois-Rivières; caused by pilot error.
5. July 26—*Hadar* at Trois-Rivières; caused by pilot error—pilot cautioned.
6. July 27—*Frank A. Sherman* at Trois-Rivières; caused by pilot error.
7. August 28—*Monte Penalara* at Pointe des Ormes; caused by pilot error—pilot reprimanded.
8. October 26—*Gray Master* at Pointe des Ormes when manoeuvring.
9. October 27—*Kasimov* at Contrecoeur; caused by steering gear failure.
10. November 27—*Sunmount* at Grondines; caused by weather and visibility.

###### (b) *Minor damage to ships*

1. November 17—*Aristogelos* lost anchor fluke at Pointe Confederation.
2. November 27—*Lind* lost anchor at Trois-Rivières when manoeuvring.

##### III. ACCIDENTS (without damage to ships)

###### (a) *Damage to buoys*

1. September 16—*Beate Bolton* believed to have struck buoy off Wolfe's Cove.

###### (b) *Other*—Nil

## Study of Montreal Pilotage District

### IV. INCIDENTS (without any damage whatsoever)

#### (a) *Touching bottom in channel*

1. January 13—*Jos. Simard* at Ile-aux-Vaches Traverse; caused by engine failure.
2. March 3—*Hudson Transport* at Lake St. Peter; caused by heavy ice.
3. April 3—*Manchester Commerce* at Lake St. Peter; caused by bank suction—vide p. 728.
4. April 12—*Irvingwood* at Pointe Bigot; caused by engine failure.
5. April 30—*Lyngenfjord* at Trois-Rivières; caused by power failure.
6. August 28—*Dea Brovig* at Ile Hertel; caused by vessel sheering passing another ship.
7. September 14—*Inland* at Varennes; caused by pilot error—pilot reprimanded.
8. September 23—*Valdahan* at Lotbinière; caused by fog.
9. October 27—*Tynemouth* at Contrecoeur; caused by vessel avoiding *Kasimov*.
10. November 5—*Rimouski* at Ste. Anne de Sorel; caused by engine failure.
11. November 27—*Irvingglen* at Pointe Aubin; caused by anchor dragging in gale force wind.
12. December 3—*Luebrenau* at Longue Pointe when manoeuvring.
13. December 14—*Argentina* at Lake St. Peter; caused by power failure.
14. December 25—*Hudson Transport* at Lake St. Peter; caused by poor visibility.

#### (b) *Other*

1. October 7—*Maridan C.* struck by *Amanda Transport* at Pte. Citrouille; caused by suction.

### B. EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING SEAWAY

#### I. MAJOR CASUALTIES (with or without loss of life)

— Nil

#### II. MINOR CASUALTIES (without loss of life)

##### (a) *Minor strandings*

1. March 29—*Varhemus* when berthing at Shed 11 at Trois-Rivières; caused by silting.
2. May 10—*Tindeffjell* when anchoring in Varennes Channel during fog.
3. June 2—*P. M. Crosbie* in Montreal harbour; caused by pilot error—pilot reprimanded.
4. December 4—*Sunvard* when anchoring at Ste. Croix during fog.

##### (b) *Minor damage to ship*

###### (i) Striking pier or installation

1. February 13—*Fenja Dan* struck quay in Montreal harbour when manoeuvring in ice with Master handling own ship.
2. April 19—*Northern Shell* struck quay in Montreal harbour; caused by current.
3. May 15—*Learina* struck pier when manoeuvring in Quebec harbour.
4. May 24—*Angelic* struck quay in Montreal harbour; caused when tow line parted.
5. June 2—*Alberto Lollighetti* struck quay at Contrecoeur; caused by wind.
6. June 6—*Piran* struck quay at Montreal; caused by engine failure.
7. September 20—*T. R. McLagan* struck quay in Montreal harbour; caused by current.

8. September 26—*Flying Independent* struck quay in Montreal harbour; caused by tug.
9. November 4—*Arion* struck quay at Montreal when manoeuvring.
10. November 11—*Benitsk* struck elevator loading duct in Montreal harbour; caused when tow line parted.
11. November 14—*Krasnouralsk* struck pier at Sorel; caused by wind.
12. December 15—*Holtheim* struck quay in Montreal harbour when manoeuvring.
13. December 17—*Manchester Spinner* struck quay and grounded at Ile Ronde when manoeuvring in strong current.

(ii) Striking vessel berthing or unberthing.

1. May 13—*Stolt Bjorn* struck *Thomas* at Montreal harbour quay; caused by engine failure.
2. May 21—H.M.S. *Scarborough* struck H.M.S. *Tenby* in Montreal harbour; caused by C.O. handling ship when manoeuvring.
3. August 22—*Westmount* struck *Polyxene C.* at Montreal harbour quay; caused by wind.
4. September 18—*Georgian Bay* touched *Marmarion* at Montreal harbour quay; caused by Master's error when handling own ship.
5. November 8—*Empress of England* collided with *Lifford* at Wolfe's Cove; caused by manoeuvring in reduced visibility.

(iii) Striking vessel at anchorage or lock—Nil

(iv) Other

1. March 10—*J. W. Paulin* struck heavy ice with bow in Lake St. Peter.
2. September 21—*Athenian* lost anchor at Batiscan when cable parted.
3. November 20—*World Charity's* lifeboat damaged by overhanging crane when berthing at Trois-Rivières.
4. November 27—*Francisca Sartori* caught tow line in propeller in Montreal harbour when manoeuvring.

### III. ACCIDENTS (without damage to ships)

(a) *Damage to pier*

1. December 7—*Antonio* struck loading chute at Sorel; caused by insufficient light on quay and chute overhanging dockside.

(b) *Damage to buoys*

1. April 23—*Manchester Merchant* struck drifting buoy when anchoring at Pointe des Ormes.
2. November 24—*Dalny* struck buoy with propeller in Montreal harbour when manoeuvring, setting buoy adrift.

### IV. INCIDENTS (without any damage whatsoever)

(a) *Striking pier or installation*

1. April 3—*Beaverash* struck quay in Montreal harbour; caused by ice.
2. May 9—*Irish Cedar* struck quay in Montreal harbour; caused by current.
3. May 14—*Mitshurinsk* struck pier in Montreal harbour when manoeuvring.
4. May 23—*Mashashima Maru* struck quay in Quebec harbour; caused by tug.
5. August 16—*Lucretia* struck quay at Trois-Rivières when manoeuvring.
6. August 24—*Sugar Transporter* struck quay in Montreal harbour when manoeuvring.
7. August 27—*Rythme* struck quay in Montreal harbour when manoeuvring.



8. September 28—*Stolt Avenir* struck quay at Trois-Rivières when manoeuvring.
  9. September 30—*Morgana* struck quay at Trois-Rivières when manoeuvring.
  10. October 14—*Oriental Trader* struck pier in Montreal harbour when manoeuvring.
- (b) *Striking vessel at pier*
1. October 19—*Nasia River* touched *City of Birkenhead* when manoeuvring at Montreal harbour quay.
- (c) *Other*
1. January 15—*Jos. Simard* struck heavy ice when anchoring at St. Nicholas during fog.
  2. April 29—*Kovrov* struck buoy off Wolfe's Cove; caused by tug failure.
  3. August 10—*Dimitros* grounded in Sorel harbour; caused by over draught.
  4. August 14—*Mellum* struck bank anchoring in Lake St. Peter during dense fog.
  5. October 17—*Cape Breton Miner* rubbed bank at Seaway entrance when manoeuvring.
  6. October 21—*Oriental Trader* touched buoy at Trois-Rivières; caused by engine trouble.

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1966

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## A. EVENTS WHILE NAVIGATING

### I. MAJOR CASUALTIES (with or without loss of life):

#### (a) *Loss or abandonment of ship*

1. September 30—*Manseau 101* (dredge) sank near Quebec Bridge in the St. Lawrence River after losing its stability due to its state of unseaworthiness, resulting in ten lives lost—vide p. 729.

#### (b) *Major stranding*

1. September 27—*Akademic Schumansky* struck bottom near Deschaillons; caused by over draught.

#### (c) *Heavy damage to ship* (other than above)

1. June 9—*Comeaudoc* collided with *Vancalt* off Pointe Citrouille; caused by steering gear failure in *Vancalt*.

### II. MINOR CASUALTIES (without loss of life):

—nil

### III. ACCIDENTS (without damage to ships):

#### (a) *Damage to buoy*

1. September 23—*T. R. McLagan* struck buoy off Longue-Pointe when turning in wind.

#### (b) *Other*—Nil

### IV. INCIDENTS (without any damage whatsoever):

#### (a) *Touching bottom in channel*

1. January 8—*Rava Russkala* in Lake St. Peter; caused by ice conditions.
2. February 24—*Hudson Transport* at Champlain; caused by heavy ice.
3. May 1—*Rudolf Oldendorf* in Vercheres Channel; caused by pilot error.

4. July 5—*Redwing* off Pointe Citrouille; cause unknown.
5. September 20—*Hein Hoyer* off Longue-Pointe; caused by engine failure.
6. October 5—*Stolt Avenir* at Trois-Rivières; caused by pilot error.
7. October 29—*Border Falcon* at Hertel Island; caused by engine failure.
8. November 4—*Liquidady* at Cap St. Michel while under tow.
9. November 22—*Frank A. Sherman* on the St. Lawrence River during fog.
10. December 5—*Brilliance* off Grondines during fog.

(b) *Other*—Nil

## B. EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING SEAWAY

### I. MAJOR CASUALTIES (with or without loss of life):

—nil

### II. MINOR CASUALTIES (without loss of life):

(a) *Minor strandings*—Nil

(b) *Minor damage to ship*

#### (i) Striking pier or installation:

1. April 26—*Rasnoeselo* touched quay at Sorel while manoeuvring.
2. May 12—*Nympe* struck quay at Sorel during wind.
3. May 17—*Thorshope* struck quay while unberthing at Montreal; caused by wheelsman's error.
4. June 9—*Atlantic Hope* struck quay at Sorel during heavy wind.
5. August 11—*Venus* struck quay while berthing at Trois-Rivières; caused by shallow water and deep draught of vessel.
6. September 18—*Cadiz* struck quay while berthing at Montreal; caused by wrong engine movement.
7. September 25—*Helga Witt* struck quay at Trois-Rivières while manoeuvring.
8. September 30—*Tobias Maersk* struck quay while berthing at Montreal.

#### (ii) Striking vessel berthing or unberthing:

1. June 20—*Prospero* touched moored *Detector* at Trois-Rivières quay during wind.
2. July 6—*Frankcliffe Hall* grounded in Montreal harbour and touched *Gloxinia* in the process during a wind squall.
3. September 24—*Belline* struck unnamed vessel when berthing at Trois-Rivières.
4. December 7—*Lunderfjell* touched *Fallsenstein* when unberthing in Montreal harbour; caused when tow line slipped off hook.

#### (iii) Striking vessel at anchorage or lock:

1. May 13—*Grovsdale* touched *Susan Fritzen* when anchoring at Lanoraie; caused by windlass failure.
2. May 19—*Nervion* struck anchored *Shelter Bay* at Sorel when manoeuvring in wind.
3. November 9—*Protinia* struck anchored *Katerina* off St. Nicholas during fog—vide p. 735.

#### (iv) Other

1. April 29—*Sir Thomas Shaughnessy* struck bridge abutment in Sorel harbour when manoeuvring.
2. August 17—*Montreal City* bumped St. Lambert lock wall with her stern when manoeuvring.
3. December 3—*Katerina* accidentally dropped her anchor off Pointe des Ormes; caused by windlass failure.

III. ACCIDENTS (without damage to ships):

(a) *Damage to pier or installation*

1. October 25—*Yuri Gagarine* struck and demolished crane on wharf at Sorel; caused by pilot error.

(b) *Damage to buoys*—Nil

(c) *Other*

1. September 4—*Exilona* struck tie-up wall during wind.

IV. INCIDENTS (without any damage whatsoever):

(a) *Striking pier or installation*

1. May 6—*Mormacsaga* struck quay while unberthing at Montreal.
2. June 24—*Pic River* struck quay in Quebec harbour when manoeuvring.
3. November 16—*Cairnglen* struck Sorel quay when manoeuvring.
4. November 22—*Charlton Mira* struck quay at Montreal when manoeuvring.
5. December 6—*Rudolf Oldendorf* struck quay unberthing at Trois-Rivières.

(b) *Striking vessel at pier*

1. April 25—*P. M. Crosbie* touched *Charny* while berthing in Montreal harbour.
2. July 6—*Mormacland* touched *Hiram* while unberthing at Trois-Rivières during wind.
3. September 2—*Yildun* drifted alongside *Mormacdawn* at her Montreal harbour berth; caused by engine trouble.

(c) *Other*

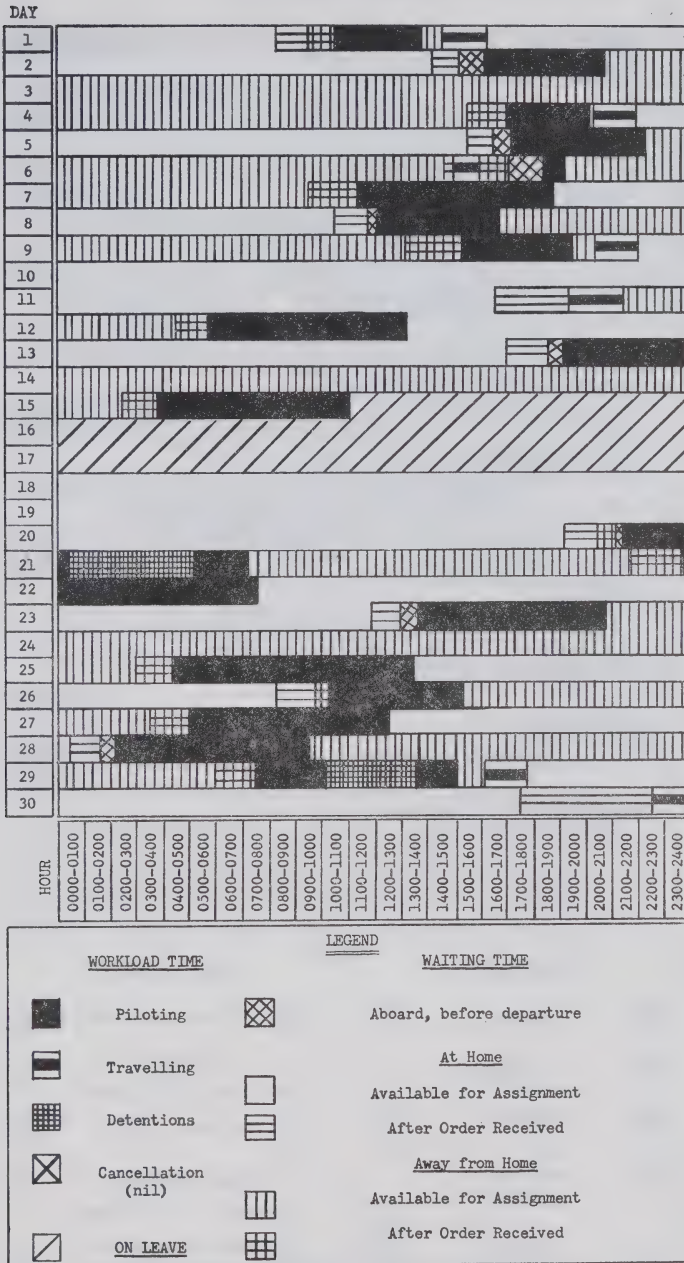
1. June 2—*Komsomolobz Uzbekistana* touched bottom in Montreal harbour; caused by wheelsman's error.
2. June 12—*Mormacpine* grounded in Montreal harbour; caused by pilot error.
3. July 30—*Kertis* touched channel bank in Montreal harbour; caused by engine failure.

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SOURCE: Exhibit 1467.



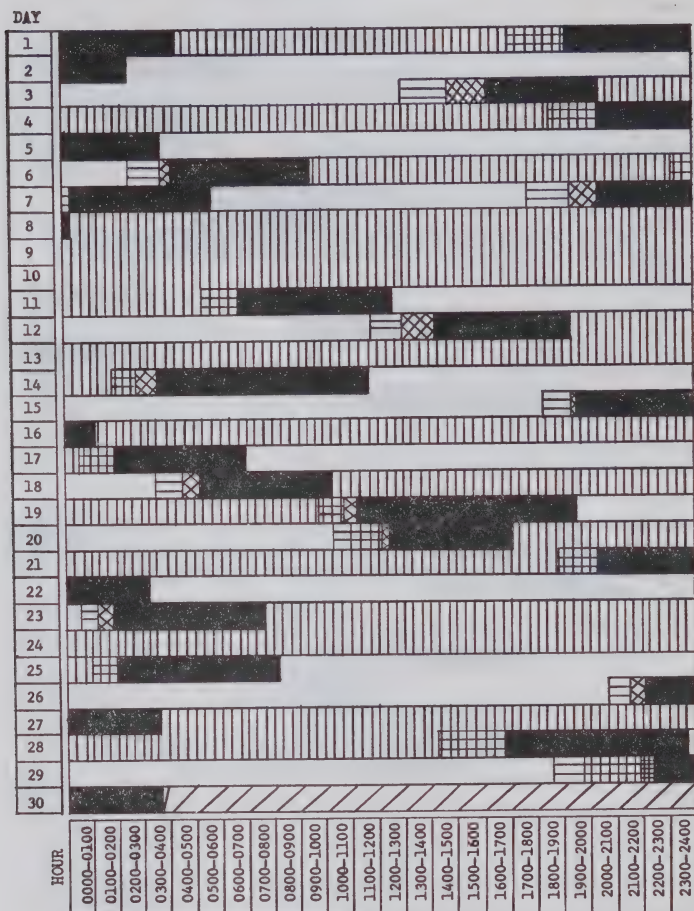
Appendix B (1) (a)  
JUNE 1962 WORKLOAD OF MONTREAL RIVER PILOT  
J. B. BÉLANGER



SOURCE: Appendix B (2) (a).

Appendix B (1) (b)

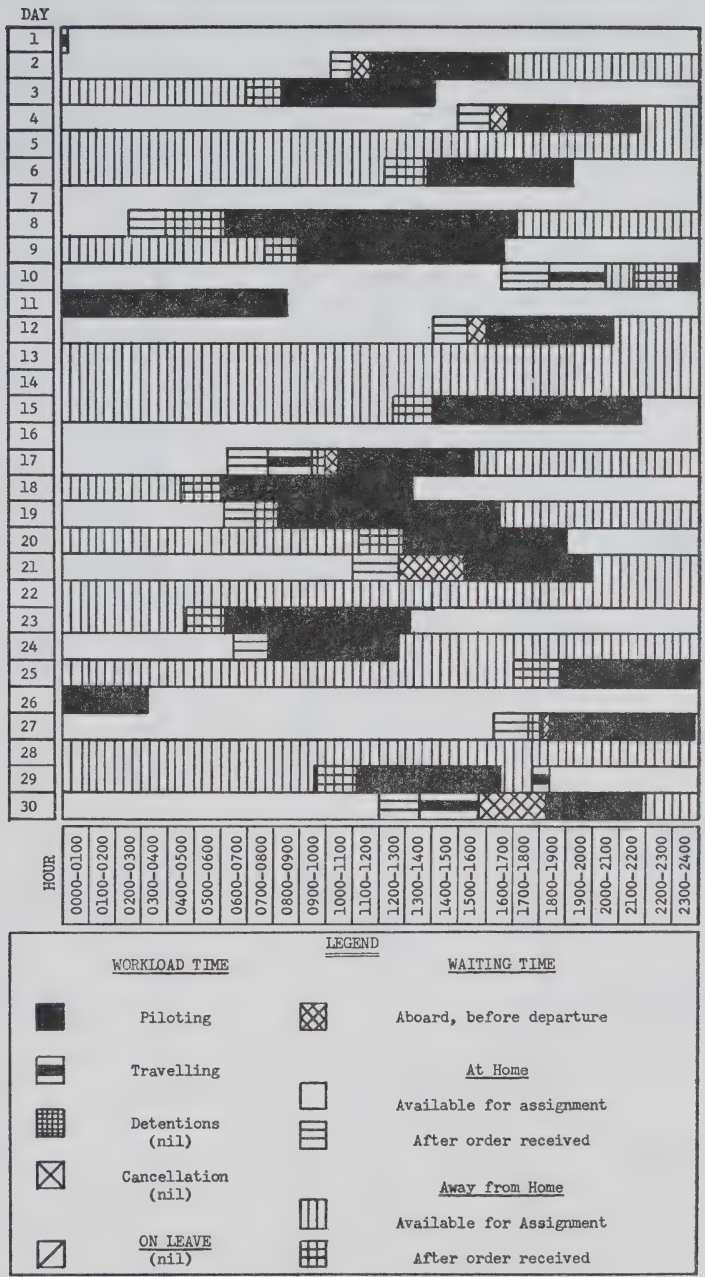
JUNE 1963 WORKLOAD OF MONTREAL RIVER PILOT  
J. B. BÉLANGER



WORKLOAD TIME		LEGEND		WAITING TIME	
	Piloting		Aboard, before departure		At Home
	Travelling (nil)		Available for Assignment		Away from Home
	Detentions		After Order Received		Available for Assignment
	Cancellation (nil)		After Order Received		
	ON LEAVE				

SOURCE: Appendix B (2) (a).

Appendix B (1) (c)  
JUNE 1964 WORKLOAD OF MONTREAL RIVER PILOT  
J. B. BÉLANGER



SOURCE: Appendix B (2) (a).



Appendix B (2) (a)

COMPARATIVE ANALYSIS OF WORKLOAD OF PILOT  
J. B. BÉLANGER DURING THE MONTH OF JUNE FOR  
THE THREE-YEAR PERIOD 1962, 1963 AND 1964

Item	June 1962				June 1963				June 1964			
	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
<i>Trips</i>												
Montreal- Trois-Rivières.....	2	4	30		1	4	25		2	5	10	
	5	5	5		3	4	10		4	5	0	
	8	4	40		6	5	20		12	4	40	
	13	4	35		7-8	3	55		21	4	45	
	23	7	5		12	5	10		24	4	40	
	28	7	20		15-16	5	40		—		0	
	—		0		18	4	55		—		0	
	—		0		23	5	50		—		0	
	—		0		26-27	5	30		—		0	
	1	9	15		1	20	55		1	0	15	
Trois-Rivières- Montreal.....	7	7	30		1-2	7	20		3	5	45	
	12	7	25		4-5	7	25		6	5	25	
	15	7	15		7	5	30		15	7	45	
	25	9	5		11	5	50		20	6	5	
	27	7	25		14	8	10		23	7	0	
	—		0		17	5	5		—		0	
	—		0		19	8	10		—		0	
	—		0		21-22	7	0		—		0	
	—		0		26	6	10		—		0	
	—		0		28	7	0		—		0	
	1	14	40		2	19	40		1	8	0	
St. Lambert- Trois-Rivières.....	20-21	4	55		20	4	40		8	10	55	
	26	5	0		29-30	5	15		19	8	10	
	—		0		—		0		27	5	35	
	9	55			9	55			1	0	40	
Trois-Rivières- St. Lambert.....	21-22	7	45		—		0		9	7	40	
	—		0		—		0		10-11	9	20	
	—		0		—		0		18	7	15	
	—		0		—		0		25-26	8	30	
	7	45			0				1	8	45	
Trois-Rivières- Sorel.....	4	3	10		—		0		—		0	
	9	4	10		—		0		—		0	
	29	2	40		—		0		—		0	
	10	0			0				0			

Item	June 1962				June 1963				June 1964			
	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
Sorel-Trois-Rivières ..	—			0	—			0	17		5	5
Trois-Rivières- Contreccœur.....	—			0	—			0	29		5	15
Contreccœur- Trois-Rivières.....	—			0	—			0	30		3	30
St. Lambert- Lanoraie.....	1		3	10	—			0	—			0
			3	10				0			13	50
Movages: Sorel.....	6			45	—			0	—			0
	29		1	30	—			0	—			0
			2	15				0				0
Total Time Piloting...		4	9	0		5	2	30		5	7	30
Detentions												
Lanoraie.....	21		4	50	—			0	—			0
Sorel.....	29		3	25	—			0	—			0
Seaway.....	—			0	29			30	—			0
			8	15				30				0
Cancellations.....				0				0				0
Awaiting Departure after Embarking												
Montreal.....	2			15	3		1	25	2			40
	5			40	6			25	4			45
	8			20	11		1	00	12			40
	13			30	12		1	10	21		2	30
	23			40	15			10	24			10
	28			30	18			45	—			0
	—			0	23			35	—			0
	—			0	26			40	—			0
			2	55			6	10			4	45
Trois-Rivières.....	—			0	14			50	—			0
—	—			0	19			30	—			0
St. Lambert.....	1			10	20			15	27			15
	20			15	—			0	—			0
Sorel.....	6		1	20	—			0	17			30
Contreccœur.....	30			5	—			0	30		2	40
			4	45			7	45			8	10
Travelling												
Montreal-Trois- Rivières.....	11		2	5	—			0	10		2	5
Trois-Rivières- Sorel.....	6		1	50	—			0	—			0
Montreal-Sorel.....	—			0	—			0	17		1	40
Sorel-Montreal.....	4		1	35	—			0	1			15*
	9		1	40	—			0	—			0
	29		1	40	—			0	—			0

\*remainder of 31/5/64 travelling

Study of Montreal Pilotage District

Item	June 1962				June 1963				June 1964			
	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
Montreal-Contrecœur.....	30		1	10	—			0	30		2	5
Contrecœur-Montreal.....	—			0	—			0	29		1	0
Lanoraie-Montreal.....	1		1	35	—			0	—			0
			11	35				0			7	5
<i>Waiting away from Home—Available for Assignment</i>												
Trois-Rivières.....	2- 4	1	18	50	1		12	35	2- 3		14	10
	5- 6		16	25	3- 4		22	10	4- 6	1	14	25
	6- 7		14	15	6		13	40	8- 9		14	35
	8- 9		20	30	8-11	3	5	5	10		1	5
	11		2	30	12-14	1	6	30	12-15	2	15	50
	12		4	30	16-17		23	20	17-18		13	0
	13-15	1	2	45	18-19		23	35	19-20		18	50
	21		14	35	20-21	1	1	40	21-23	1	8	45
	23-25	1	6	15	23-25	1	17	20	24-25	1	4	20
	26-27		12	15	27-28	1	10	40	27-29	1	9	35
	28-29		20	30	—			0	30		2	10
			8	13			12	16			10	20
Sorel.....	4			10	—			0	—			0
	9			55	—			0	—			0
	29		1	5	—			0	—			0
Contrecœur.....	—			0	—			0	29		1	15
Lanoraie.....	1			50	—			0	—			0
			8	16			12	16			10	22
				20				35				0
<i>Waiting away from Home—after Order Received</i>												
Trois-Rivières.....	4		1	35	1		2	10	3		1	20
	6			15	4		1	50	6		1	35
	7		1	50	6- 7		1	5	9		1	15
	9		2	5	11		1	25	10		1	40
	12		1	15	14			55	15		1	30
	15		1	15	17		1	25	18		1	30
	21		2	0	19		1	0	20		1	40
	25		1	20	21		1	30	23		1	25
	27		1	30	25		1	0	25		1	45
	29		1	25	28		2	25	29		1	40
			14	30			14	45			15	20



Item	June 1962				June 1963				June 1964			
	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
St. Lambert lock.....	1		1	0	—			0	—			0
	20			40	—			0	—			0
	26			30	—			0	—			0
Sorel.....	6			20	—			0	17			30
Contrecoeur.....	30			10	—			0	—			0
			17	10			14	45			15	50
<i>Waiting at Home— Available for Assign- ment.....</i>	1		8	10	2- 3	1	10	30	1- 2	1	9	55
	1- 2		22	0	5- 6		22	45	3- 4	1	0	55
	4- 5		17	30		7		11 55	6- 8	1	7	15
	7- 8		15	40	11-12		23	15	9-10		23	55
	9-11	1	18	35	14-15	1	6	30	11-12	1	5	30
	12-13	1	3	50	17-18		20	30	15-17	1	8	30
	18-20	2	19	10	19-20		14	50	18-19		16	50
	22-23	1	4	20	22-23		21	15	20-21		16	0
	25-26		18	50	25-26	1	12	20	23-24		17	20
	27-28		12	5	28-29		18	50	26-27	1	13	0
	29-30		23	45	—			0	29-30		17	20
		11	19	55		9	18	40		11	16	30
<i>Waiting after Order Received.....</i>	1		1	20	3		1	45	2			50
	2		1	40	6		1	15	4		1	5
	5		1	5	11		1	40	8		3	40
	8		1	15	12		1	10	10		1	50
	11		2	45	15		1	5	12		1	20
	13		1	40	18		1	0	17		1	30
	20		1	20	20		1	55	19		2	10
	23		1	10	23			45	21		1	45
	26		1	30	26			55	24		1	20
	28		1	10	29		3	20	27		1	50
	30		5	5	—			0	30		1	35
			20	0			14	50			18	55
<i>On Leave.....</i>	15-17	2	13	0	30		20	25	—			0
		30	0	0		30	0	0		30	0	0

SOURCE: Ex. 781.

## Appendix B (2) (b)

COMPARATIVE SUMMARY OF WORKLOAD OF PILOT  
J. B. BÉLANGER DURING THE MONTH OF JUNE FOR  
THE THREE-YEAR PERIOD 1962, 1963 AND 1964

Item	June 1962			June 1963			June 1964		
	Turns*	hrs.	mins.	Turns	hrs.	mins.	Turns	hrs.	mins.
<i>Trips</i>									
Montreal-Trois-Rivières.....	6	33	15	9	44	55	5	24	15
Trois-Rivières-Montreal.....	5	38	40	10	67	40	5	32	0
St. Lambert-Trois-Rivières.....	2	9	55	2	9	55	3	24	40
Trois-Rivières-St. Lambert.....	1	7	45	—	0		4	32	45
Sorel-Trois-Rivières.....	—	0		—	0		1	5	5
Trois-Rivières-Sorel.....	3	10	0	—	0		—		0
Contreccœur-Trois-Rivières.....	—	0		—	0		1	3	30
Trois-Rivières-Contreccœur.....	—	0		—	0		1	5	15
St. Lambert-Lanoraie.....	1	3	10	—	0		—		0
Total Trips.....	18	102	45	21	122	30	20	127	30
<i>Movages: Sorel</i> .....	2	2	15	—	0		—		0
Total time piloting.....	20	105	0	21	122	30	20	127	30
<i>Detentions</i>									
Lanoraie.....	1	4	50	—	0		—		0
Sorel.....	1	3	25	—	0		—		0
Seaway.....	—	0		1	30		—		0
<i>Cancellations</i> .....	—	0		—	0		—		0
Total Time Chargeable.....	22	113	15	22	123	0	20	127	30
<i>Travelling</i>									
Montreal-Trois-Rivières.....	1	2	5	—	0		1	2	5
Sorel-Montreal.....	3	4	55	—	0		1		15
Montreal-Sorel.....	—	0		—	0		1	1	40
Trois-Rivières-Sorel.....	1	1	50	—	0		—		0
Contreccœur-Montreal.....	—	0		—	0		1	1	0
Montreal-Contreccœur.....	1	1	10	—	0		1	2	5
Lanoraie-Montreal.....	1	1	35	—	0		—		0
Total Travelling Time.....	7	11	35	—	0		5	7	5
Total Workload Time.....		124	50		123	0		134	35
<i>Waiting Time—</i>									
<i>Aboard, before Departure</i>									
Montreal.....	6	2	55	8	6	10	5	4	45
Trois-Rivières.....	—	0		2	1	20	—		0
St. Lambert.....	2		25	1		15	1		15

\*In tables of this nature, *turns* should be taken to mean *times* in connection with items other than assignments.

Item	June 1962			June 1963			June 1964		
	Turns	hrs.	mins.	Turns	hrs.	mins.	Turns	hrs.	mins.
Sorel.....	1	1	20	—		0	1		30
Contrecœur.....	1		30	—		0	1	2	40
Total Waiting Time Aboard.....	10	4	45	11	7	45	8	8	10
Total Time on Assignments.....		129	35		130	45		142	45
<i>Away from Home</i>									
Trois-Rivières.....	11	219	50	10	319	20	11	276	5
St. Lambert lock.....	3	2	10	—		0	—		0
Sorel.....	3	2	30	—		0	1		30
Contrecœur.....	1		10	—		0	1	1	15
Lanoraie.....	1		50	—		0	—		0
Total Waiting Time Away From Home.....	19	225	30	10	319	20	13	277	50
Total Time Away From Home.....		355	5		450	5		420	35
<i>At Home</i>									
Available for assignment.....	11	285	55	10	234	40	11	280	30
After order received.....	11	20	0	10	14	50	11	18	55
Total Time Available For Duty.....		659	0		699	35		720	0
On Leave.....	1	61	0	1	20	25	—		0
		720			720			720	
		(30 days)			(30 days)			(30 days)	

SOURCE: Appendix B (2) (a).



## Appendix B (3) (a)

**COMPARATIVE SUMMARY OF WORKLOAD  
OF BUSIEST MONTREAL RIVER PILOT DURING BUSIEST MONTH  
FOR THE THREE-YEAR PERIOD 1962, 1963 AND 1964**

Summary of Workload	July 1962 Pilot Gaston Daneau			November 1963 Pilot J. A. M. Couët			July 1964 Pilot Adrien Arcand		
	Turns	hrs	mins.	Turns	hrs.	mins.	Turns	hrs.	mins.
<i>Trips</i>									
Montreal-Trois-Rivières.....	8	45	5	6	30	25	0		—
Trois-Rivières-Montreal.....	9	70	45	6	40	20	0		—
St. Lambert-Trois-Rivières.....	0		—	3	25	40	0		—
Trois-Rivières-St. Lambert.....	0		—	1	8	30	0		—
Quebec-Trois-Rivières	0		—	0		—	13	87	15
Trois-Rivières-Quebec	0		—	0		—	12	70	40
Other.....	4	19	50	3	9	50	0		—
<i>Movages</i> .....	1		40	5	incl. in trips		6	8	30
<b>Total Piloting</b> .....		136	20		114	45		166	25
<i>Detention</i> .....	8	43	50	6	65	20	2	8	30
<i>Cancellation</i> .....	0		—	0		—	0		—
<i>Travelling</i> .....	0		—	1	3	0	0		—
<b>Total Workload</b> .....		180	10		183	5		150	55
<i>Waiting</i>									
Away from home.....	9	264	45	9	196	25	19	288	15
At home, available.....	10	299	5	10	340	25	13	280	50
			31 days			30 days			31 days

SOURCE: Ex. 790.

## Appendix B (3) (b)

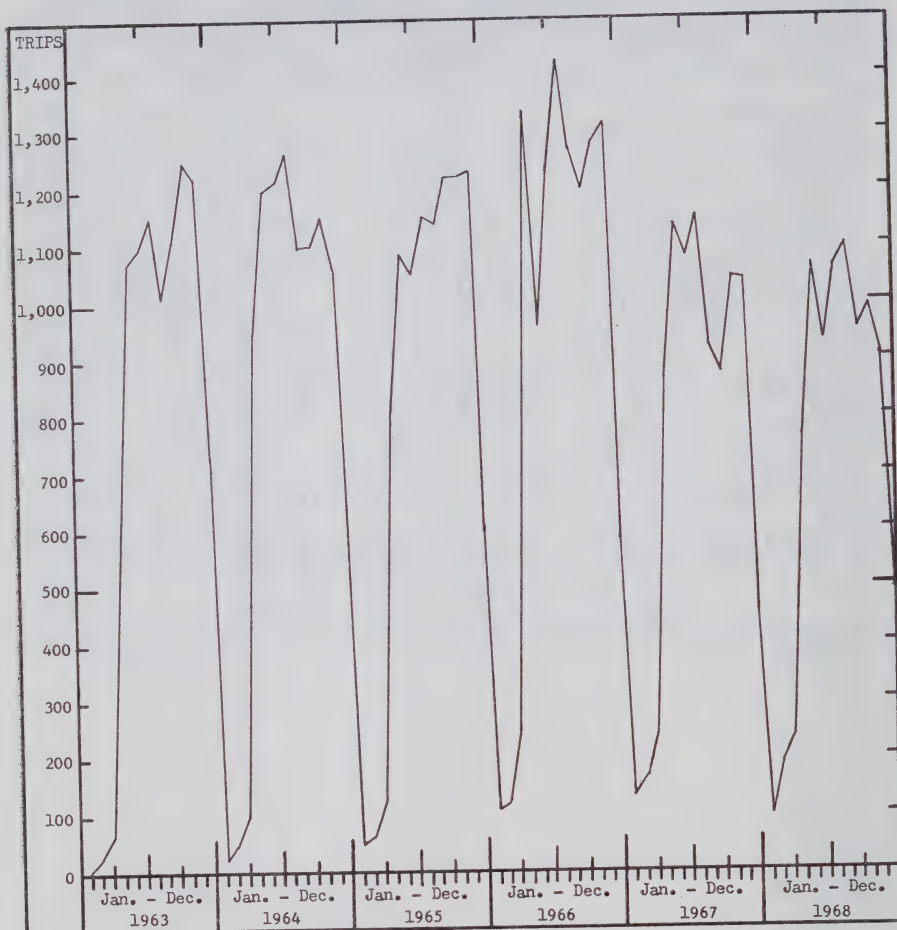
COMPARATIVE SUMMARY OF WORKLOAD OF  
BUSIEST MONTREAL RIVER PILOT DURING LEAST BUSY MONTH  
FOR THE THREE-YEAR PERIOD 1962, 1963 AND 1964

Summary of Workload	September 1962 Pilot Henri Bernier		May 1963 Pilot G. E. Perreault		September 1964 Pilot Horace Perron	
	Turns	hrs. mins.	Turns	hrs. mins.	Turns	hrs. mins.
<i>Trips</i>						
Montreal-Trois-Rivières.....	0	—	5	25 5	8	43 50
Trois-Rivières-Montreal.....	0	—	7	49 55	8	52 40
St. Lambert-Trois-Rivières.....	0	—	3	15 0	2	12 45
Trois-Rivières-St. Lambert.....	0	—	1	13 30	3	30 20
Quebec-Trois-Rivières.....	10	75 15	0	—	0	—
Trois-Rivières-Quebec.....	10	55 30	0	—	0	—
Other.....	0	—	2	10 30	0	—
<i>Movages</i> .....	0	—	0	—	1	incl. in trips
Total Piloting.....		310 45		114 0		139 35
<i>Detention</i> .....	2	28 0	4	35 20	3	3 55
<i>Cancellation</i> .....	0	—	0	—	0	—
<i>Travelling</i> .....	0	—	0	—	1	3 20
Total Workload.....		158 45		149 20		146 50
<i>Waiting</i>						
Away from home.....	10	244 35	9	184 50	11	194 45
At home, available.....	11	316 40	10	409 50	11	378 25
		30 days		31 days		30 days

SOURCE: Ex. 791.

Appendix C (1) (a)

COMPARISON OF TRIPS EACH MONTH DURING 1963-1968  
BY MONTREAL RIVER PILOTS BETWEEN MONTREAL  
AND TROIS-RIVIÈRES

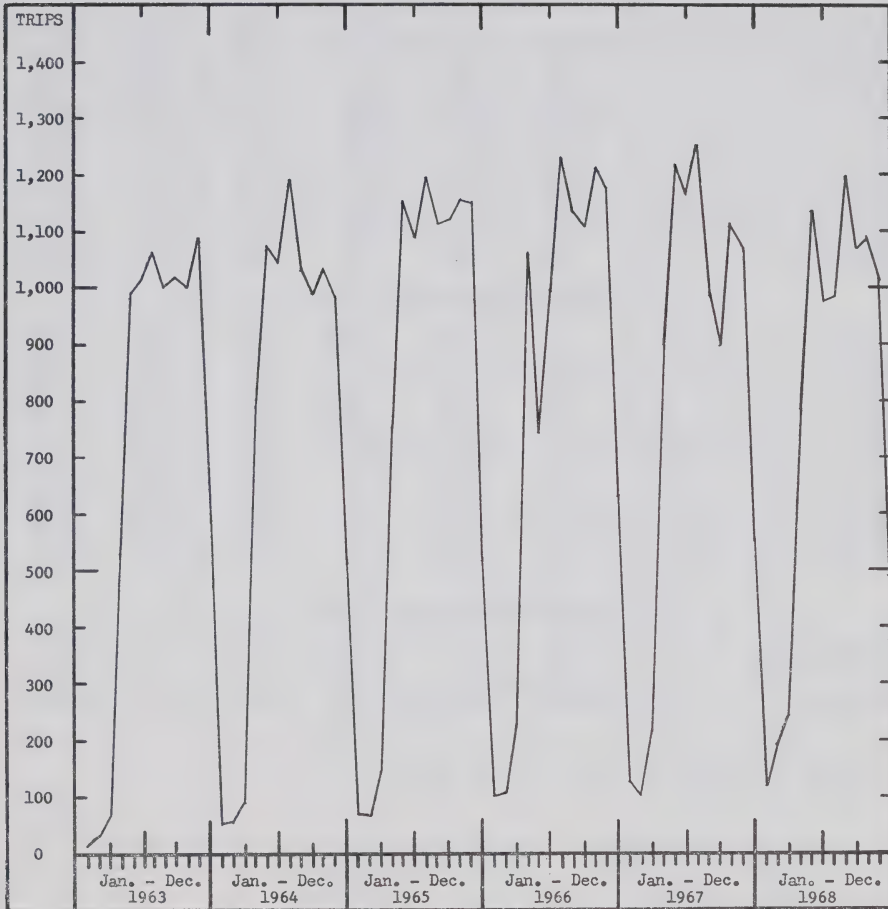


SOURCE: Appendix C (2).



Appendix C (1) (b)

COMPARISON OF TRIPS EACH MONTH DURING 1963-1968  
BY MONTREAL RIVER PILOTS BETWEEN QUEBEC  
AND TROIS-RIVIÈRES



SOURCE: Appendix C (2).

Appendix C (2)

AGGREGATE NUMBER OF TRIPS BY MONTREAL RIVER PILOTS  
EACH MONTH DURING 1963-1968

Month	1963	1964	1965	1966	1967	1968
(a) Between Montreal and Trois-Rivières						
January.....	1	22	56	110	129	98
February.....	27	52	65	120	155	191
March.....	67	98	127	239	238	235
April.....	577	947	797	1,338	864	766
May.....	1,071	1,207	1,086	958	1,135	1,062
June.....	1,097	1,216	1,054	1,231	1,080	928
July.....	1,150	1,266	1,152	1,423	1,151	1,062
August.....	1,014	1,106	1,143	1,273	921	1,098
September.....	1,116	1,108	1,211	1,200	876	947
October.....	1,249	1,154	1,215	1,282	1,045	991
November.....	1,222	1,065	1,236	1,316	1,040	908
December.....	727	582	596	583	453	493
(b) Between Quebec and Trois-Rivières						
January.....	17	50	68	102	124	119
February.....	34	54	64	107	102	193
March.....	67	92	145	226	221	244
April.....	531	790	755	1,061	903	785
May.....	987	1,074	1,149	742	1,217	1,137
June.....	1,018	1,043	1,091	998	1,166	975
July.....	1,066	1,187	1,195	1,230	1,248	985
August.....	1,000	1,030	1,114	1,134	985	1,195
September.....	1,021	998	1,120	1,108	899	1,068
October.....	1,002	1,034	1,157	1,209	1,116	1,087
November.....	1,091	984	1,153	1,178	1,068	1,013
December.....	686	519	523	630	554	489
(c) Total Number of Trips per Year						
(i) Upper Sector.....	9,318	9,823	9,738	11,073	9,087	8,779
(ii) Lower Sector.....	8,520	8,855	9,534	9,725	9,603	9,290
(iii) TOTAL.....	17,838	18,678	19,272	20,798	18,690	18,069

SOURCE: Ex. 1539(y).

Appendix D  
MONTREAL DISTRICT  
COMPARATIVE ANALYSIS OF WINTER NAVIGATION TRIPS

(1) TOTAL NUMBER OF TRIPS

Date	Total Trips Upbound and Downbound					Total Trips Upbound					Total Trips Downbound				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
Dec. 1-7.....	304	320	412	449	331	94	112	144	181	124	210	208	268	268	207
8-15.....	112	144	169	288	196	45	52	63	107	46	67	92	106	181	150
16-31.....	12	21	24	115	101	5	5	10	27	34	7	16	14	88	67
	428	485	605	852	628	144	169	217	315	204	284	316	388	537	424
Jan. 1-15.....	0	2	2	12	18	0	1	1	7	8	0	1	1	1	5
16-31.....	0	2	6	15	3	0	1	5	7	3	0	1	1	8	0
Feb. 1-15.....	0	4	9	26	36	0	3	3	14	18	0	1	6	12	18
16-28.....	8	8	22	20	48	5	3	14	8	24	3	5	8	12	24
Mar. 1-15.....	11	29	18	57	56	5	17	10	29	28	6	12	8	28	28
16-31.....	15	29	47	41	71	11	16	28	28	45	4	13	19	13	26
	34	74	104	171	232	21	41	61	93	126	13	33	43	78	106
Apr. 1-8.....	23	35	20	147	112	20	30	16	102	66	3	5	4	45	46
TOTAL TRIPS.....	485	594	729	1,170	972	185	240	294	510	396	300	354	435	660	576

Source: Exhibit 1464(f). (NOTE: Full transit counts as two trips; half transit counts as one trip.)



## (2) TOTAL FULL AND HALF TRIPS

Date	Full Transits—Upper and Lower Sectors					Half Transits—Lower Sector					Half Transits—Upper Sector				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
<i>Upbound Trips</i>															
Dec. 1-7.....	70	80	124	150	108	6	4	8	8	4	18	28	12	23	12
8-15.....	30	38	48	74	34	6	3	9	10	5	9	11	6	23	7
16-31.....	2	2	4	14	26	2	3	2	10	4	1	0	4	3	4
Jan. 1-15.....	102	120	176	238	168	14	10	19	28	13	28	39	22	49	23
16-31.....	0	0	0	2	4	0	1	1	5	2	0	0	0	0	2
Feb. 1-15.....	0	0	2	6	0	0	1	3	0	1	0	0	0	1	2
16-28.....	4	2	12	8	24	0	2	1	1	0	0	1	0	1	1
Mar. 1-15.....	4	14	10	26	26	0	2	0	2	0	1	0	1	0	0
16-31.....	10	16	24	22	44	1	0	2	5	1	0	0	2	1	0
Apr. 1-8.....	18	32	50	76	114	1	7	8	13	5	2	2	3	4	7
Total Upbound.....	6	28	6	86	62	8	2	8	9	0	6	0	2	7	4
	126	180	232	400	344	23	19	35	50	18	36	41	27	60	34
<i>Downbound Trips</i>															
Dec. 1-7.....	150	140	230	214	180	22	27	18	18	11	38	41	20	36	16
8-15.....	46	72	82	146	126	9	7	10	12	12	12	13	14	23	12
16-31.....	6	10	8	56	52	1	4	4	20	7	0	2	2	12	8
Jan. 1-15.....	202	222	320	416	358	32	38	32	50	30	50	56	36	71	36
16-31.....	0	0	0	2	8	0	1	1	3	2	0	0	0	0	0
Feb. 1-15.....	0	0	0	2	0	0	1	1	4	0	0	0	0	2	0
16-28.....	2	4	6	12	14	0	1	2	2	2	0	0	0	2	2
Mar. 1-15.....	6	10	8	24	26	0	1	1	0	0	1	0	1	0	0
16-31.....	2	12	18	6	24	1	0	1	3	1	0	0	0	2	2
Apr. 1-8.....	10	26	36	54	96	1	6	6	14	5	2	1	1	10	5
Total Downbound.....	2	0	4	28	40	1	2	0	5	0	0	3	0	12	6
	214	248	360	498	494	34	46	38	69	35	52	60	37	93	47
GRAND TOTAL.....	340	428	592	898	838	57	65	73	119	53	88	101	64	153	81

(3) NUMBER OF UNINTERRUPTED TRIPS

Date	Full Transits—Upper and Lower Sectors						Half Transits—Lower Sector						Half Transits—Upper Sector					
	1960/61	1961/62	1962/63	1963/64	1964/65		1960/61	1961/62	1962/63	1963/64	1964/65		1960/61	1961/62	1962/63	1963/64	1964/65	
<i>Upbound Trips</i>																		
Dec. 1-7.....	36	48	112	96	80		6	4	8	7	3		16	28	12	22	12	
8-15.....	12	16	40	26	12		6	2	9	7	2		8	11	6	23	6	
16-31.....	2	0	2	8	6		1	3	2	4	2		1	0	4	2	4	
Jan. 1-15.....	0	0	0	0	2		0	0	1	5	2		0	0	0	0	1	
16-31.....	0	0	0	6	0		0	1	3	0	1		0	0	0	1	2	
Feb. 1-15.....	0	0	0	12	6		0	2	1	1	1		0	1	0	1	1	
16-28.....	0	0	8	6	22		0	1	1	0	0		1	0	1	0	0	
Mar. 1-15.....	2	6	8	18	20		0	2	0	2	0		0	1	0	1	2	
16-31.....	8	14	22	22	36		1	0	2	5	1		0	0	2	1	0	
Apr. 1-8.....	4	8	2	80	56		6	1	8	8	0		5	0	2	7	4	
Total Upbound.....	64	92	194	274	240		20	16	35	39	12		31	41	27	58	32	
<i>Downbound Trips</i>																		
Dec. 1-7.....	106	108	208	168	138		21	24	18	18	9		34	39	20	34	14	
8-15.....	32	48	66	86	82		8	7	10	12	11		10	12	14	19	12	
16-31.....	0	6	4	36	30		1	4	4	20	7		0	2	2	9	7	
Jan. 1-15.....	0	0	0	2	8		0	1	1	3	2		0	0	0	0	0	
16-31.....	0	0	0	0	0		0	1	1	3	0		0	0	0	2	0	
Feb. 1-15.....	0	0	0	6	12		0	1	1	2	2		0	0	0	2	1	
16-28.....	0	0	2	10	20		0	1	1	0	0		1	0	0	0	0	
Mar. 1-15.....	0	2	2	20	20		0	1	0	0	0		0	0	0	2	2	
16-31.....	0	6	10	6	18		1	0	0	3	1		0	1	0	4	1	
Apr. 1-8.....	0	0	0	18	32		1	1	0	3	0		0	2	0	11	6	
Total Downbound.....	138	170	292	352	360		32	41	36	66	32		45	56	36	83	43	
GRAND TOTAL UNINTERRUPTED.....	202	262	486	626	600		52	57	71	105	44		76	97	63	141	75	

(4) NUMBER OF TRIPS INTERRUPTED FOR NIGHT

Date	Full Transits—Upper and Lower Sectors					Half Transits—Lower Sector					Half Transits—Upper Sector				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
<i>Upbound Trips</i>															
Dec. 1-7.....	30	32	12	38	18	0	0	0	0	0	1	0	0	1	0
8-15.....	18	22	8	46	20	0	1	0	2	0	1	0	0	0	0
16-31.....	0	2	2	6	20	0	0	0	0	2	0	0	0	0	0
Jan. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
16-31.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-28.....	0	0	2	2	0	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	0	4	2	8	6	0	0	0	0	0	0	0	0	0	0
16-31.....	0	2	2	0	6	0	0	0	0	0	0	0	0	0	0
Apr. 1-8.....	0	20	0	2	6	0	1	0	0	0	0	0	0	0	0
Total Upbound.....	48	82	28	102	76	0	2	0	2	2	2	0	0	1	1
<i>Downbound Trips</i>															
Dec. 1-7.....	36	32	22	38	34	1	3	0	0	1	3	2	0	0	1
8-15.....	12	24	16	52	28	1	0	0	0	1	1	1	0	2	0
16-31.....	0	4	4	18	14	0	0	0	0	0	0	0	0	1	0
Jan. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb. 1-15.....	0	0	2	2	2	0	0	0	0	0	0	0	0	0	0
16-28.....	0	0	2	2	2	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	0	2	2	4	6	0	1	0	0	0	0	0	0	0	0
16-31.....	0	0	8	0	4	0	0	1	0	0	0	0	0	0	0
Apr. 1-8.....	0	0	2	6	6	0	1	0	0	0	0	1	0	0	0
Total Downbound.....	48	62	58	122	96	2	5	1	0	2	4	4	0	3	1
GRAND TOTAL INTERRUPTED FOR NIGHT.....	96	144	86	224	172	2	7	1	2	4	6	4	0	4	2



(5) NUMBER OF TRIPS INTERRUPTED FOR ICE

Date	Full Transits—Upper and Lower Sectors					Half Transits—Lower Sector					Half Transits—Upper Sector				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
<i>Upbound Trips</i>															
Dec. 1-7.....	4	0	0	0	0	0	0	0	1	1	1	0	0	0	0
8-15.....	0	0	0	0	2	0	0	0	1	0	0	0	0	0	1
16-31.....	0	0	0	0	0	1	0	0	5	0	0	0	0	0	0
Jan. 1-15.....	0	0	0	2	2	0	1	0	0	0	0	0	0	0	0
16-31.....	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Feb. 1-15.....	0	0	2	0	10	0	0	0	0	0	0	0	0	0	0
16-28.....	4	2	2	0	2	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	2	4	0	0	0	0	0	0	0	0	1	0	0	0	0
16-31.....	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Apr. 1-8.....	2	0	4	0	0	2	0	0	1	0	1	0	0	0	0
Total Upbound.....	14	6	10	2	16	3	1	0	8	1	3	0	0	0	1
<i>Downbound Trips</i>															
Dec. 1-7.....	8	0	0	0	2	0	0	0	0	1	1	0	0	0	0
8-15.....	2	0	0	0	6	0	0	0	0	0	1	0	0	0	0
16-31.....	6	0	0	2	0	0	0	0	0	0	0	0	0	2	0
Jan. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	0	0	0	2	0	0	0	0	1	0	0	0	0	0	0
Feb. 1-15.....	0	0	2	0	0	0	0	1	0	0	0	0	0	0	0
16-28.....	2	4	2	0	2	0	0	0	0	0	0	0	1	0	0
Mar. 1-15.....	6	6	4	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	2	6	0	0	0	0	0	0	0	0	1	0	0	0	0
Apr. 1-8.....	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Total Downbound.....	28	16	10	4	10	0	0	1	1	1	3	0	1	2	0
GRAND TOTAL INTERRUPTED FOR ICE.....	42	22	20	6	26	3	1	1	9	2	6	0	1	2	1

## (6) NUMBER OF TRIPS INTERRUPTED FOR OTHER THAN NIGHT OR ICE

Date	Full Transits—Upper and Lower Sectors					Half Transits—Lower Sector					Half Transits—Upper Sector				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
<i>Upbound Trips</i>															
Dec. 1-7.....	0	0	0	16	10	0	0	0	0	0	0	0	0	0	0
8-15.....	0	0	0	2	0	0	0	0	0	3	0	0	0	0	0
16-31.....	0	0	0	0	0	0	0	0	1	0	0	0	1	0	0
Jan. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-28.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0
Apr. 1-8.....	0	0	0	4	0	0	0	0	0	0	0	0	0	0	0
Total Upbound.....	0	0	0	22	12	0	0	0	1	3	0	0	0	1	0
<i>Downbound Trips</i>															
Dec. 1-7.....	0	0	0	8	6	0	0	0	0	0	0	0	0	2	1
8-15.....	0	0	0	8	10	0	0	0	0	0	0	0	0	2	0
16-31.....	0	0	0	0	8	0	0	0	0	0	0	0	0	0	1
Jan. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
16-28.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-31.....	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0
Apr. 1-8.....	0	0	0	4	2	0	0	0	2	0	0	0	0	1	0
Total Downbound.....	0	0	0	20	28	0	0	0	2	0	0	0	0	5	3
GRAND TOTAL INTERRUPTED FOR OTHER THAN NIGHT OR ICE.....	0	0	0	42	40	0	0	0	3	3	0	0	0	6	3

(7) NUMBER OF TRIPS WITH VESSEL REINFORCED FOR ICE

Date	Full Transits—Upper and Lower Sectors					Half Transits—Lower Sector					Half Transits—Upper Sector				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
<i>Upbound Trips</i>															
Dec. 1-7.....	0	2	6	10	12	0	0	0	1	0	0	0	0	0	1
8-15.....	2	2	10	12	10	1	0	0	1	1	0	1	0	1	0
16-31.....	0	0	0	12	16	0	0	0	3	2	0	0	1	1	2
Jan. 1-15.....	0	0	0	2	4	0	1	1	2	2	0	0	0	0	2
16-31.....	0	0	2	6	0	0	1	3	0	1	0	0	0	1	2
Feb. 1-15.....	0	0	2	12	16	0	2	1	1	1	0	1	0	1	1
16-28.....	4	2	12	8	24	0	1	1	0	0	1	1	0	0	0
Mar. 1-15.....	4	14	10	26	26	0	2	0	1	0	1	1	0	1	2
16-31.....	8	8	18	10	22	1	0	2	4	1	0	1	1	1	0
Apr. 1-8.....	0	4	2	2	14	0	1	0	1	0	0	0	0	0	2
Total Upbound.....	18	32	62	100	144	2	8	8	14	8	2	3	2	6	12
<i>Downbound Trips</i>															
Dec. 1-7.....	4	0	12	14	16	0	0	0	0	2	0	0	0	1	1
8-15.....	2	2	8	10	8	0	0	0	1	0	0	1	1	2	2
16-31.....	0	2	2	28	8	0	0	0	2	3	0	0	0	2	4
Jan. 1-15.....	0	0	0	2	8	0	1	1	0	2	0	0	0	0	0
16-31.....	0	0	0	2	0	0	1	1	3	0	0	0	0	2	0
Feb. 1-15.....	0	0	4	8	14	0	1	2	2	2	0	0	0	2	2
16-28.....	2	4	6	12	24	0	1	1	0	0	1	0	1	0	0
Mar. 1-15.....	6	10	8	24	24	0	2	0	1	0	0	0	0	2	2
16-31.....	2	12	18	6	20	0	0	1	3	1	1	1	0	4	1
Apr. 1-8.....	0	0	2	2	10	0	0	0	0	0	0	0	0	0	1
Total Downbound.....	16	30	60	108	132	0	6	6	12	10	2	2	2	14	13
GRAND TOTAL REINFORCED FOR ICE.....	34	62	122	208	276	2	14	14	26	18	4	5	4	20	25



(8) NUMBER OF TRIPS WITH VESSEL NOT REINFORCED FOR ICE

Date	Full Transits—Upper and Lower Sectors					Half Transits—Lower Sector					Half Transits—Upper Sector				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
<i>Upbound Trips</i>															
Dec. 1-7.....	70	78	118	140	96	6	4	8	7	4	18	28	12	23	11
8-15.....	28	36	38	62	24	5	3	9	9	4	9	10	6	22	7
16-31.....	2	2	4	2	10	2	3	2	7	2	1	0	4	2	2
Jan. 1-15.....	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0
16-31.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-28.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0
16-31.....	2	8	6	12	22	0	0	0	1	0	0	0	1	0	0
Apr. 1-8.....	6	24	4	84	48	8	1	8	8	0	6	0	2	7	2
Total Upbound.....	108	148	170	300	200	21	11	27	36	10	34	38	25	54	22
<i>Downbound Trips</i>															
Dec. 1-7.....	146	140	218	200	164	22	27	18	18	9	38	41	20	35	15
8-15.....	44	70	74	136	118	9	7	10	11	12	12	12	13	22	10
16-31.....	6	8	6	28	44	1	4	4	18	4	0	2	2	10	4
Jan. 1-15.....	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0
16-31.....	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0
Feb. 1-15.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16-28.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mar. 1-15.....	0	0	0	0	2	0	0	0	1	0	0	0	0	0	0
16-31.....	0	0	0	0	4	1	0	0	0	0	0	0	0	0	0
Apr. 1-8.....	2	0	2	26	30	1	2	0	5	0	0	3	0	12	5
Total Downbound.....	198	218	300	390	362	34	40	32	57	25	50	58	35	79	34
GRAND TOTAL NOT REINFORCED FOR ICE.....	306	366	470	690	562	55	51	59	93	35	84	96	60	133	56

(9) COMPARATIVE SUMMARY OF WINTER NAVIGATION TRIPS

Summary	Number of Trips Upbound and Downbound					Number of Trips Upbound					Number of Trips Downbound				
	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65	1960/61	1961/62	1962/63	1963/64	1964/65
(1) <i>Total Number of Trips</i>															
Dec. 1-31.....	428	485	605	852	628	144	169	217	315	204	284	316	388	537	424
Jan. 1-Mar. 31.....	34	74	104	171	232	21	41	61	93	126	13	33	43	78	106
Apr. 1-8.....	23	35	20	147	112	20	30	16	102	66	3	5	4	45	46
Total.....	485	594	729	1,170	972	185	240	294	510	396	300	354	435	660	576
(2) <i>Total Full and Half Trips</i>															
Full transits.....	340	428	592	898	838	126	180	232	400	344	214	248	360	498	494
Half transits:															
Lower sector.....	57	65	73	119	53	23	19	35	50	18	34	46	38	69	35
Upper sector.....	88	101	64	153	81	36	41	27	60	34	52	60	37	93	47
Total.....	485	594	729	1,170	972	185	240	294	510	396	300	354	435	660	576
(3) <i>Uninterrupted Trips</i>															
Interrupted Trips															
(4) <i>For Night</i> .....	104	155	87	230	178	50	84	28	105	79	54	71	59	125	99
(5) <i>For Ice</i> .....	51	23	22	17	29	20	7	10	10	18	31	16	12	7	11
(6) <i>For Other</i> .....	0	0	0	51	46	0	0	0	24	15	0	0	0	27	31
Total.....	485	594	729	1,170	972	185	240	294	510	396	300	354	435	660	576
(7) <i>Reinforced for Ice</i>															
(8) <i>Not Reinforced for Ice</i> .....	40	81	140	254	319	22	43	72	120	164	18	38	68	134	155
Total.....	445	513	589	916	653	163	197	222	390	232	282	316	367	526	421
Total.....	485	594	729	1,170	972	185	240	294	510	396	300	354	435	660	576

## II. MONTREAL HARBOUR PILOTS

## Appendix A (I)

## COMPARATIVE STATISTICAL ANALYSIS OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS WITH A MONTREAL HARBOUR PILOT ON BOARD DURING THE TEN-YEAR PERIOD 1959-1968 INCLUSIVE

DETAILS	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968
A. EVENTS WHILE NAVIGATING.....										
B. EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING SEAWAY.....										
I. MAJOR CASUALTIES (with or without loss of life).....										
II. MINOR CASUALTIES (without loss of life)										
(a) Minor strandings.....	8	2	1	3	1	1	1	—	—	—
(b) Minor damage to ship.....	16	10	4	8	11	8	10	4	11	7
(i) Striking pier or installation.....										
(ii) Striking vessel berthing or unberthing.....	5	2	8	3	2	—	4	3	1	1
(iii) Striking vessel at anchorage or lock.....	1	—	1	2	1	1	2	4	1	—
(iv) Striking approach wall or fender.....	1	—	1	—	—	1	2	—	—	—
(v) Striking lock wall or fender.....	—	1	—	2	—	—	1	—	—	—
(vi) Striking lock gate or gate fender.....	—	—	—	—	—	1	—	—	1	—
(vii) Striking bridge.....	2	1	2	2	—	4	—	1	—	—
(viii) Other.....	—	16	17	20	15	16	20	12	14	8
III. ACCIDENTS (without damage to ships).....	33									
(a) Damage to pier or installation.....	2	—	2	—	2	1	—	—	1	—
(b) Damage to buoys.....	1	2	—	—	—	—	—	—	—	1
(c) Damage to lock.....	—	—	—	—	—	—	1	1	—	—
	3	2	2	—	2	1	1	1	1	1



[illegible]

SOURCE: ix. 1467.

Appendix A (2) (a)

DETAILED ANALYSIS FOR THE YEAR 1959  
OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS  
WITH A MONTREAL HARBOUR PILOT ON BOARD

The year 1959 had the greatest number of events in the past ten years.  
The details are as follows:

---

A. EVENTS WHILE NAVIGATING

—Nil

B. EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING  
SEAWAY

I. MAJOR CASUALTIES (with or without loss of life)

—Nil

II. MINOR CASUALTIES (without loss of life)

(a) *Minor strandings*

1. May 16—*Korthi*, caused by windlass brake not holding.
2. May 17—*Sweetwater*, caused by wind when avoiding buoys.
3. June 9—*Transbay*, caused by wind and light ship.
4. June 12—*Corcovado*, caused by slow-changing engine movements.
5. July 25—*Martian*, caused by slow manoeuvring, visibility, wind and current.
6. September 18—*Biskopso*, caused by sheer and ship heavily loaded.
7. November 12—*Renvoyle*, cause not mentioned.
8. November 18—*Cedar Hill*, caused by wind and windlass failure.

(b) *Minor damage to ship*

(i) *Striking pier or installation*

1. April 11—*Santa Rosa* hit pier; caused by tug tow line not secure.
2. April 27—*Silver Lake* hit berth wall when reversing.
3. May 7—*Oriente* hit shed and buoy when turning; caused by line released too soon.
4. May 17—*Beaverburn* hit shed; caused by tugmaster ignoring order.
5. June 2—*Prins Casimir* hit pier; caused by engine trouble.
6. June 7—*Westriver* hit pier when ship swung over.
7. June 17—*Hagarty* hit section when anchoring.
8. June 29—*Linda Scarlett* hit pier; caused by tug ignoring signals and current.
9. July 8—*Norma County* hit pier; caused by current and tug ignoring signals.
10. July 14—*Charles L. D.* hit wharf when she swung too slowly.
11. August 22—*Malcolm* hit pier during wind.
12. September 9—*Galila* hit pier (cause not mentioned).
13. October 15—*Flying Spray* hit section when berthing.
14. October 28—*Marie Skou* hit pier when line not slackened.
15. November 28—*Imperial Quebec* hit pier during wind when tug ignored signals.
16. December 9—*Federal Voyager* collided with berth during moveage when Master handled ship.

(ii) *Striking vessel berthing or unberthing*

1. May 8—*Prescott* hit drill scow; caused by drifting.
2. May 16—*Manchester City* touched *Torvanger*; caused by passing too close.
3. November 3—*Marie Skou* touched *Brodvig* and crane during wind.

4. November 11—*Nipigon Bay* collided with *Thornsby* when turning in confined space.
5. November 25—*Norco* touched ships (not named) when reversing in wind; caused by current.
- (iii) *Striking vessel at anchorage or lock*
  1. May 1—*Elfriede* hit *George S. Cleet* at entrance to St. Lambert lock; caused by engine failure and no men to moor; approximate loss \$3,000.
- (iv) *Striking approach wall or fender*
  1. June 10—*Exanthia* hit tie-up wall upbound at the lower entrance to St. Lambert lock; caused by manoeuvring in wind.
- (v) *Striking lock wall or fender*—Nil.
- (vi) *Striking lock gate or gate fender*—Nil.
- (vii) *Striking bridge*—Nil.
- (viii) *Other*
  1. September 18—*La Maria* suffered windlass failure.
  2. October 28—*Normandiet* lost anchor when shifting position.

### III. ACCIDENTS (without damage to ships)

#### (a) *Damage to pier or installation*

1. April 15—*Cairndhu* damaged office building at Elevator No. 1 when berthing; damage \$1,627.94.
2. November 18—*Bruce Angus* damaged face of wharf at Section 101 when unberthing; damage \$285.18.

### IV. INCIDENTS (without any damage whatsoever)

1. November 14—*Waldemar Peter* (neither nature, cause nor damage mentioned).

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SOURCE: Ex. 1467.



Appendix A (2) (b)

DETAILED ANALYSIS FOR THE YEAR 1968  
OF SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS  
WITH A MONTREAL HARBOUR PILOT ON BOARD

The year 1968 had the least number of events in the past ten years.  
The details are as follows:

---

A. EVENTS WHILE NAVIGATING

—Nil.

B. EVENTS WHILE BERTHING, UNBERTHING, ANCHORING OR ENTERING SEAWAY

I. MAJOR CASUALTIES (with or without loss of life)

—Nil.

II. MINOR CASUALTIES (without loss of life)

(a) *Minor strandings*—Nil.

(b) *Minor damage to ship*

(i) *Striking pier or installation*

1. March 11—*Severodvinsk* struck quay; caused by ice in harbour.
2. April 29—*Alfred Theodore* struck quay; caused by light ship and wind.
3. August 13—*Bregaglia* struck quay at Section 43N when manoeuvring.
4. September 21—*Shelter Bay* struck pier at Section 57; caused by pilot's error.
5. September 30—*J. N. McWatters* struck quay; caused by master's error.
6. November 3—*Marly II* struck quay when manoeuvring.
7. December 17—*Ponta Spico* struck quay; caused by tugs unable to hold vessel during wind and ice.

(ii) *Striking vessel berthing or unberthing*

1. July 22—*Frampton Dyke* struck *Lemoyne* and pier; caused by wind.

III. ACCIDENTS (without damage to ships)

1. August 10—*Barbara* struck buoy No. 165M in Montreal harbour when manoeuvring.

IV. INCIDENTS (without any damage whatsoever)

(a) *Striking pier or installation*

1. July 20—*Panagia Kounistra* struck quay at Section 57; caused by pilot's error; no damage reported.
2. October 19—*Liquilassie* struck fender in Montreal harbour; caused by pilot's error.

(b) *Striking vessel at pier*—Nil.

(c) *Striking vessel at anchorage or lock*—Nil.

(d) *Striking buoys*—Nil.

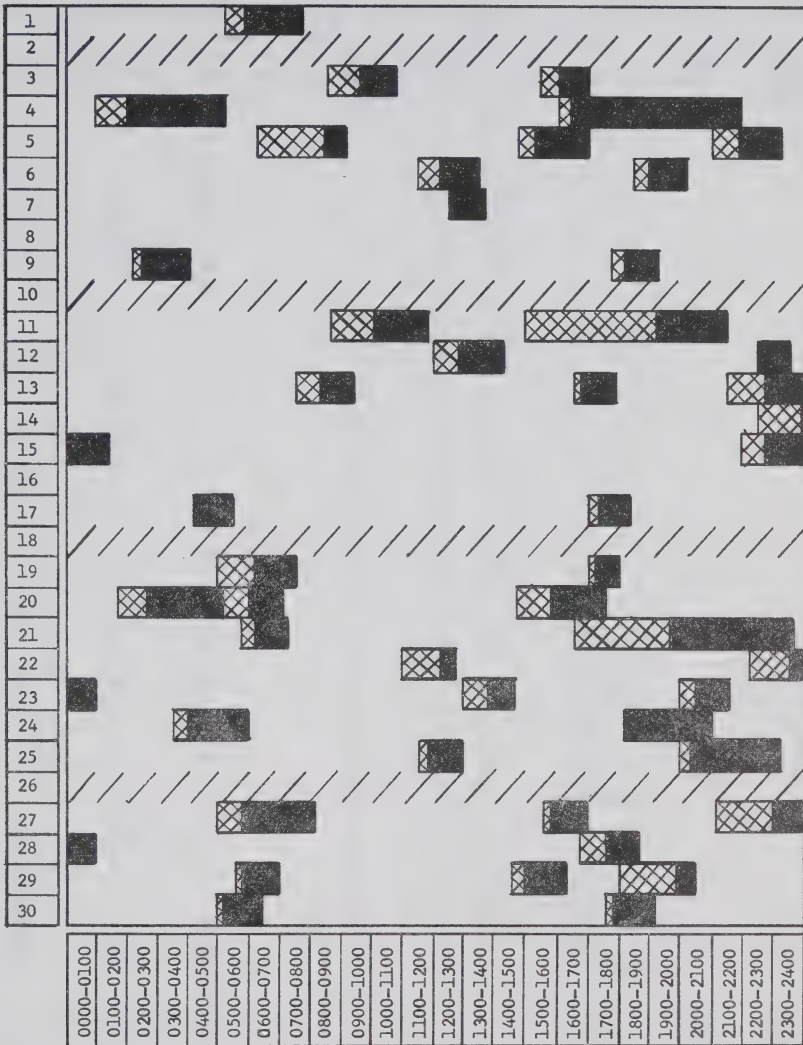
(e) *Other*







1. May 5—*Dimitris N.* grounded in Montreal harbour; caused by pilot's error.

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SOURCE: Ex. 1451-1968.

Appendix B (1)  
JUNE 1964 WORKLOAD OF MONTREAL HARBOUR PILOT  
J. J. MÉNARD



LEGEND	
	Piloting
	Detention — Nil
	Cancellation — Nil
	Waiting at home, available
	Waiting on board, before departure
	On leave

SOURCE: Appendix B (2).

Appendix B (2) (a)

ANALYSIS OF JUNE 1964 WORKLOAD  
OF MONTREAL HARBOUR PILOT J. J. MÉNARD

ON LEAVE		AT HOME, AVAILABLE				WAITING ON BOARD				PILOTING			
Dates	days	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.	Dates	days	hrs.	mins.
2	1	1		5	15	1		40		1	1	50	
		1&3	1	0	45	3	1	10		3	1	10	
		3		4	40	3		30		3	1	00	
		3-4		8	00	4	1	00		4	3	15	
		4		10	45	4		25		4	5	30	
		4-5		8	20	5	2	10		5		50	
		5		5	30	5		35		5	1	40	
		5		4	00	5		50		5	1	25	
		5-6		12	15	6		40		6	1	20	
		6		5	00	6		25		6	1	15	
		6-7		16	20	7		—		7	1	15	
		7-9	1	12	30	9		15		9	1	35	
		9		13	40	9		25		9	1	05	
		9&11		13	25	11	1	25		11	1	45	
10	1	11		3	10	11	4	10		11	2	20	
		11-12		14	30	12		50		12	1	30	
		12		8	10	12		—		12	1	00	
		12-13		8	00	13		50		13	1	05	
		13		7	05	13		10		13	1	10	
		13		3	40	13	1	10		13	1	20	
		14		22	30	14	1	25		14-15	1	35	
		15		20	25	15		45		15	1	20	
		16-17	1	4	10	17		—		17	1	15	
		17		11	35	17		20		17	1	00	
		17&19		10	40	19	1	10		19	1	20	
		19		9	30	19		10		19		50	
		19-20		7	45	20		55		20	2	30	
18	1	20		—		20		50		20	1	05	
		20		7	35	20	1	10		20	1	40	
		20-21		12	15	21		25		21	1	10	
		21		9	10	21	3	10		21	3	55	
		21-22		11	25	22	1	10		22		30	
		22		9	35	22	1	15		22-23	1	30	
		23		12	00	23		50		23		45	
		23		5	25	23		30		23	1	05	
		23-24		5	55	24		30		24	2	00	
		24		12	10	24		—		24	2	50	
		24-25		14	30	25		20		25	1	10	
		25		7	00	25		20		25	2	55	
		25&27		5	45	27		45		27	2	25	
		27		7	25	27		15		27	1	05	
26	1	27		4	10	27	1	55		27-28	2	00	
		28		15	40	28		50		28	1	15	
		28-29		10	50	29		10		29	1	15	
		29		7	30	29		30		29	1	20	
		29		1	40	29	1	50		29		35	
		29-30		8	35	30		10		30	1	20	
		30		11	00	30		10		30	1	30	
		30		4	50								
(4)	4	(48)	21	04	00	(44)	1	15	30	(48)	3	04	30
Average per turn:				10	35				54			1	36

SOURCE: Ex. 1416.



## Appendix B (2) (b)

SUMMARY OF JUNE 1964 WORKLOAD  
OF MONTREAL HARBOUR PILOT J. J. MÉNARD

Item	No. of Turns	Aggregate Time		Total Turns	Total Time	
		hrs.	mins.		hrs.	mins.
<i>Movages</i>						
Anchorage to lock.....	3	10	00			
Lock to anchorage.....	0		00			
Anchorage to Seaway.....	2	3	40			
Seaway to anchorage.....	2	2	25			
Berth to lock.....	6	14	50			
Lock to berth.....	0		00			
Berth to Seaway.....	6	8	30			
Seaway to berth.....	9	12	45			
Elevator to Seaway.....	2	2	15			
Seaway to elevator.....	4	6	00			
Anchorage to berth.....	3	2	20			
Berth to anchorage.....	1	1	20			
Berth to elevator.....	2	1	50			
Berth to berth.....	6	6	25			
Elevator to elevator.....	1	1	20			
Anchorage to anchorage.....	1	2	50			
Total Piloting.....	—	—	—	48	76	30
<i>Detentions at lock wall</i> .....				9	(included in movage)	
<i>Cancellation</i> .....				0		00
Total Workload.....				57	76	30
<i>Waiting</i>						
On board, before departure:						
Anchorage.....	8	5	40			
Lock.....	0		00			
Seaway.....	15	12	40			
Berth.....	19	19	30			
Elevator.....	2	1	40			
Total Waiting on Board.....	—	—	—	44	39	30
At Home, Available.....				48	508	00
<i>On Leave</i> .....				4	96	00
GRAND TOTAL.....					30 days	

SOURCE: EX. 1416.

Appendix B (3)

COMPARATIVE SUMMARY OF WORKLOAD OF BUSIEST MONTREAL HARBOUR PILOT  
DURING BUSIEST AND LEAST BUSY MONTHS IN 1962, 1963 AND 1964

WORKLOAD	BUSIEST MONTH*			LEAST BUSY MONTH†		
	October 1962	November 1963	November 1964	May 1962	August 1963	August 1964
	Turns hrs. mins.	Turns hrs. mins.	Turns hrs. mins.	Turns hrs. mins.	Turns hrs. mins.	Turns hrs. mins.
<i>Movages</i>						
Anchorage to Seaway.....	5 8 45	4 6 45	4 5 20	5 5 35	2 2 20	5 7 20
Seaway to anchorage.....	3 4 35	1 1 05	1 1 50	2 3 40	0 0 00	0 0 00
Berth to Seaway.....	18 28 00	17 20 50	6 8 40	10 13 50	16 21 35	14 15 40
Seaway to berth.....	16 21 30	13 17 15	20 30 35	11 15 00	15 18 55	20 30 15
Anchorage to berth.....	1 1 40	3 2 40	1 1 25	0 0 00	0 0 00	2 3 25
Berth to anchorage.....	1 55	3 2 40	1 2 00	0 0 00	2 1 55	3 2 10
Berth to berth.....	8 9 05	9 8 55	12 10 50	13 11 15	5 7 10	6 6 30
Other.....	0 00	1 50	1 45	1 25	1 50	0 00
Total Movages.....	52 73 30	51 61 00	46 60 25	42 49 45	41 52 45	50 65 20
<i>Detentions</i>						
Anchorage.....	4 8 05	2 8 40	1 3 05	2 23 40	0 00	1 1 10
Seaway.....	6 10 20	5 7 25	13 22 15	6 7 55	5 8 50	8 13 15
Berth.....	6 15 35	16 49 15	7 27 00	3 8 15	2 2 35	15 35 10
Total Detentions.....	16 34 00	23 65 20	21 52 20	11 39 50	7 11 25	24 49 35

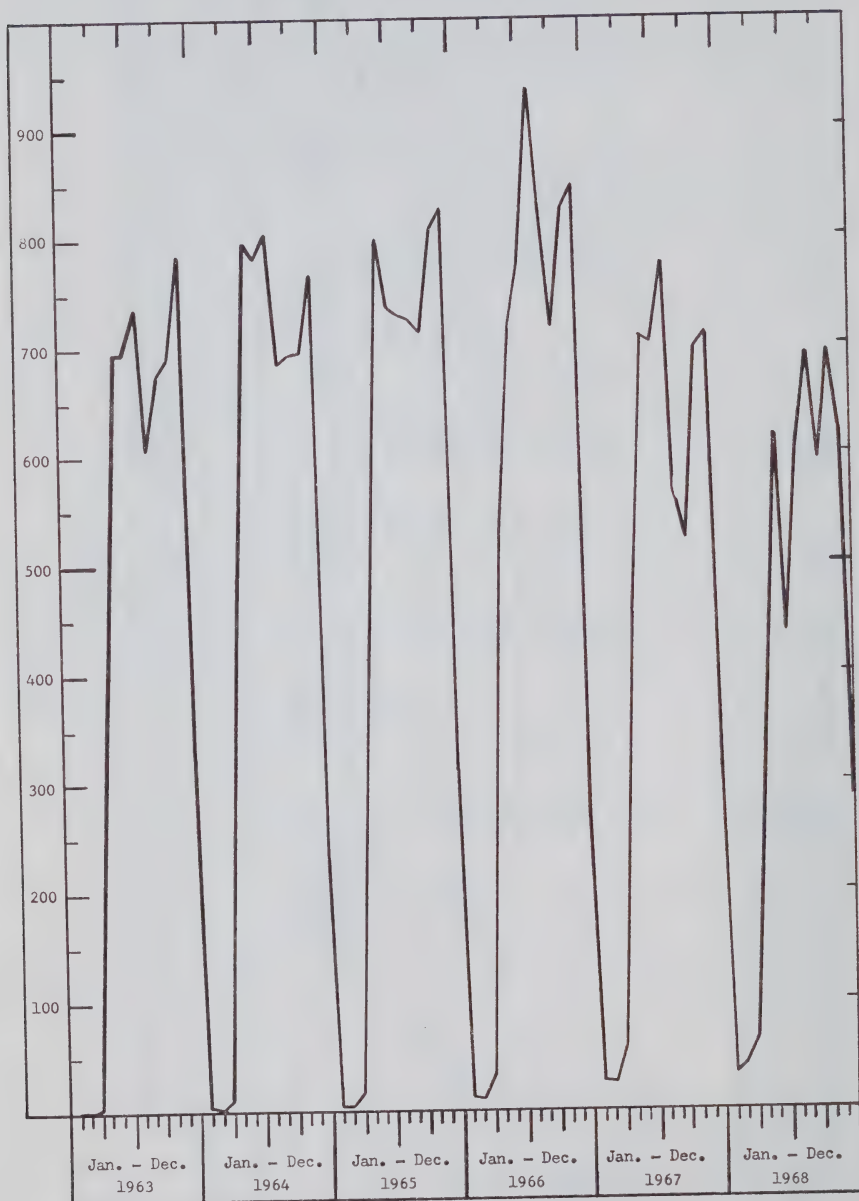
<i>Cancellations</i>									
Anchorage.....	0	00	1	1	55	1	8	3	15
Seaway.....	0	00	0	1	00	1	05	0	00
Berth.....	0	00	2	5	20	1	20	0	00
Total Cancellations .....	0	00	3	7	15	3	9	3	15
<i>Waiting on Board before Departure</i>									
Anchorage.....	2	40	5	2	50	4	5	3	05
Seaway.....	12	17	8	1	30	8	4	7	30
Berth.....	15	10	12	6	40	12	22	11	15
Lachine lock.....	0	00	1	30	30	1	25	0	00
Total Waiting.....	29	28	26	11	30	25	32	21	50
At Home, Available.....		608		574	55		565	631	20
GRAND TOTAL.....		744		720	00		720	744	00
		(31 days)		(30 days)	(30 days)		(30 days)	(31 days)	(31 days)
Name of Pilot.....	C. Borromée Lavoie		Louis-Philippe Boucher			Geoffrey D. Long		Thomas Quinn	
								Geoffrey D. Long	
									Daniel S. Scott

SOURCES: \*Ex. 788 and †Ex. 789—*Berth* includes: Section, Shed, Jetty, Dry Dock, Elevator, etc.



Appendix C (1)

COMPARISON OF TRIPS EACH MONTH DURING THE YEARS  
1963-1968 BY MONTREAL HARBOUR PILOTS



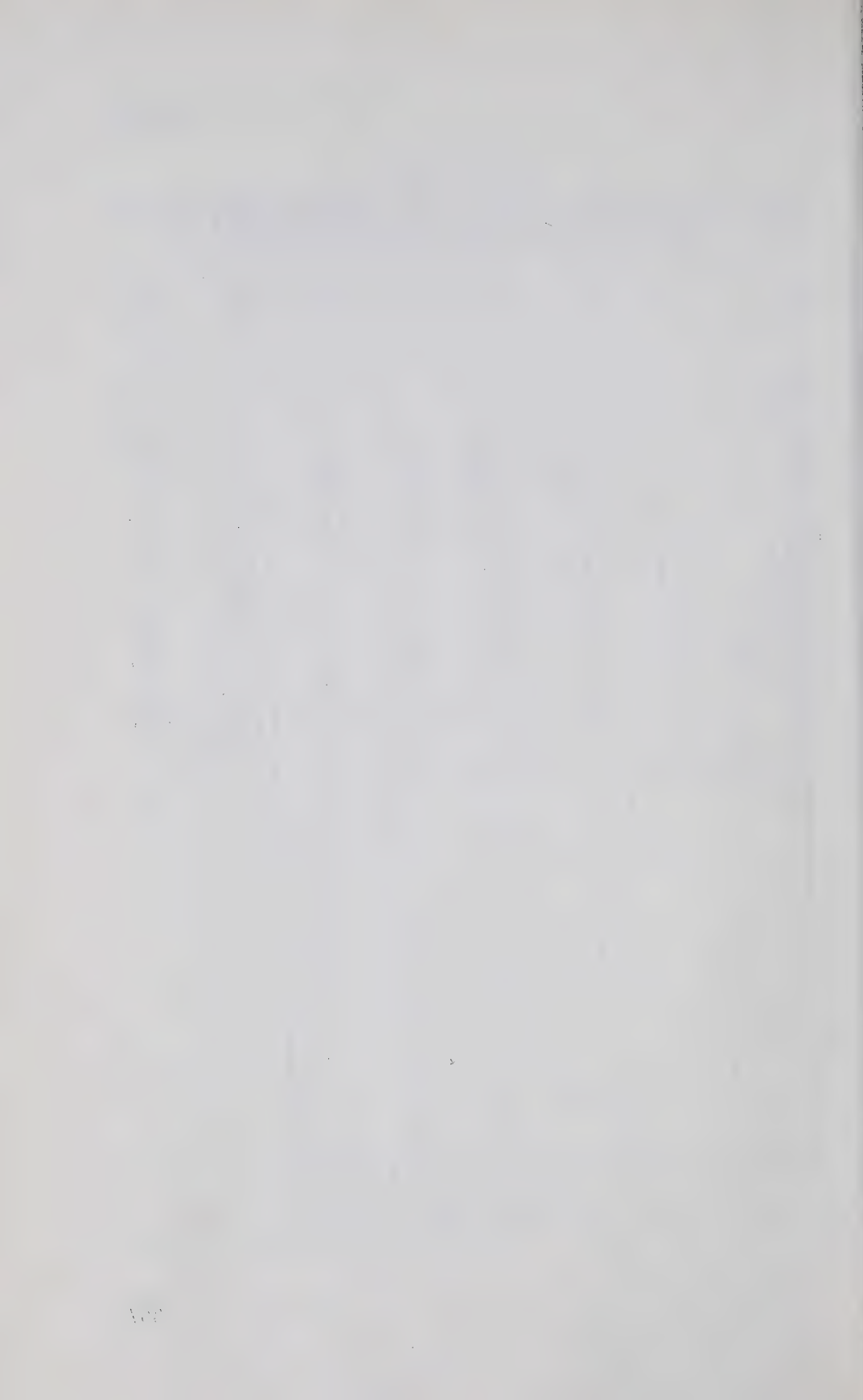
SOURCE: Appendix C (2).

Appendix C (2)

AGGREGATE NUMBER OF TRIPS BY MONTREAL HARBOUR PILOTS  
EACH MONTH DURING THE YEARS 1963-1968

Month	1963	1964	1965	1966	1967	1968
January.....	0	2	2	11	25	32
February.....	0	0	3	11	25	42
March.....	2	11	19	34	57	66
April.....	364	490	413	524	455	333
May.....	695	794	797	716	708	618
June.....	693	782	734	772	702	437
July.....	736	804	729	937	776	603
August.....	607	684	726	831	569	691
September.....	674	693	712	718	522	594
October.....	691	696	806	824	698	692
November.....	786	766	825	847	711	620
December.....	325	233	311	268	311	286
TOTAL.....	5,573	5,955	6,077	6,493	5,559	5,014

SOURCE: Ex. 1539(z).





## Section Four

PILOTAGE DISTRICT OF CORNWALL



## Chapter A

# LEGISLATION

## 1. LAW AND REGULATIONS

### PREAMBLE

Apart from the sections of the Canada Shipping Act that apply to pilotage in general, none apply to the Cornwall Pilotage District specifically. Particular legislation relating to this District is contained in the annual estimates of the Department of Transport, and in regulations made pursuant to the Canada Shipping Act. These special provisions are studied in the following pages.

### (1) ORDER IN COUNCIL MADE PURSUANT TO THE CANADA SHIPPING ACT

#### (a) *Creation of the District*

The Cornwall Pilotage District was created by an Order of the Governor in Council made pursuant to sec. 324 C.S.A., on November 17, 1960 (P.C. 1960-1570, Ex. 1143) when the former St. Lawrence-Kingston-Ottawa Pilotage District was rescinded (P.C. 1960-1569, Ex. 829) and its territory on the St. Lawrence River divided between two new Districts, the eastern section becoming the Cornwall District and the western section the Kingston District (P.C. 1960-1571, Ex. 829).

#### (b) *Limits of the District as Stated in Order in Council*

The Governor in Council's Order which created the Cornwall Pilotage District defined the limits; this definition, which has not been amended since, reads:

"...on the east by the eastern end of the Seaway approach or the eastern end of the Lachine Canal in Montreal Harbour and on the west by the boundary line between the United States and Canada where it crosses the navigable channel of the River St. Lawrence near St. Regis in the Province of Quebec, and including the canals and the waters of the River St. Lawrence between the said limits, together with the waters of the Cornwall Canal and its eastern approaches."

#### (i) *Eastern limit*

The eastern limit of the District is defined in relation to both the former and the present routes to and from the harbour of Montreal and the upper reaches of the St. Lawrence River.



Following the construction of the St. Lawrence Seaway, the 14-foot Lachine Canal was maintained to serve local industries and effective April 1, 1959, was transferred for operation and management (P.C. 1959-204) from the Department of Transport to the Seaway Authority. It remained toll free until its permanent closing in March 1968; its eastern entrance has since been filled in.

It seems clear that the whole of the entrance to the Seaway was meant to be joint pilotage territory of the Cornwall and Montreal Districts but this aim was not achieved in law because the limits of the Pilotage District of Montreal, as defined in sec. 323 C.S.A., were never altered to meet the new situation following the opening of the St. Lawrence Seaway (vide p. 565 and pp. 627-8).

(ii) *Western limit*

The western limit is also defined in relation to both the former and the present routes to and from Cornwall and the upper reaches of the St. Lawrence River.

The 14-foot Cornwall Canal has also since been closed. It had similarly been decided that what remained of this canal following the construction of the international St. Lawrence River power project in the summer of 1958 should be maintained to serve local industries. Like the Lachine Canal, it was transferred to the Seaway Authority by P.C. 1959-204, effective April 1, 1959, and remained toll free until its permanent closing to navigation in March 1968. However, its eastern approach remains as a dead-end, 27-foot channel branching from the Seaway channels north of St. Regis Island, three miles downstream from Cornwall.

The other part of the western limit is accurately defined since the U.S./Canada boundary is a well-known geographical line which crosses the Seaway ship channel south of Cornwall Island, three quarters of a mile upstream from the narrows between the Islands of St. Regis and Cornwall.

*COMMENT*

In addition to the common fault found in the definition of the limits in all contiguous Districts except between Quebec and Montreal, i.e., no provision for joint territory where ships in transit can change pilots (Part I, pp. 48-51 and Gen. Rec. 9, pp. 480-482), the description of the Cornwall limits has proved the cause of serious legal and pilotage problems. It is obvious that it was adopted for considerations unassociated with the efficient, practical operation of the pilotage service since the common boundary area between the Cornwall and the Kingston Districts should clearly be established six miles upstream at Snell lock. These problems are studied on pp. 899 and ff.

(c) *Pilotage Authority*

The Governor in Council's Order that created the District appointed the Minister of Transport the Pilotage Authority. This part of the Order has not been amended since.

(d) *Compulsory Payment of Pilotage Dues*

The compulsory payment of dues was established by the Order which created the District.

Formerly, the policy had been to impose the compulsory payment of dues automatically whenever a District was created (Part I, p. 212). The former St. Lawrence-Kingston-Ottawa Pilotage District was one of the rare exceptions and this was because the upper end of the District (now the Kingston District) passed through United States waters. When the Cornwall District was established, with its western limit as above described, this objection no longer prevailed and the payment of dues was then made compulsory.

(2) PILOTAGE AUTHORITY'S ENACTMENTS

CONFIRMED BY GOVERNOR IN COUNCIL

(a) *Appointment of Secretary-Treasurer and Authorization for Payment of District Expenses (sec. 328 C.S.A.)*

No use is made of the powers granted by sec. 328 C.S.A. The function of Secretary-Treasurer is discharged by an employee of the Department of Transport who represents the Pilotage Authority and acts as the local Supervisor of Pilots. His remuneration and all District operating expenses are assumed by the Department of Transport.

(b) *Delegation of Pilotage Authority's Powers (subsecs. 327(2) and 329(p) C.S.A.)*

The situation here is the same as in the Districts of Montreal and Quebec (vide p. 20).

(c) *Exemptions and Withdrawal of Exemptions (secs. 326, 347 and 357 C.S.A.)*

By subsec. 346(ee), which was added by an amendment to the Act in 1961 (9-10 Eliz. II c. 32), United States ships whose operations are primarily upon the Great Lakes or between ports on the Great Lakes and on the St. Lawrence River, although they may make an occasional voyage to ports in the "Maritime Provinces of Canada", enjoy an absolute statutory exemption from the compulsory payment of pilotage dues. As noted in Part I, p. 221, this exemption is the result of an amendment to the Act rendered necessary to ensure similarity of treatment to Canadian and United States lakers following the opening of the St. Lawrence Seaway and the introduction of the joint Canada-United States arrangements on the Great Lakes.

The District regulations originally did not contain any modification to the general scheme of exemptions of sec. 346 C.S.A. (vide Part I, pp. 221-223). By a 1965 amendment made pursuant to sec. 347 C.S.A. (although the authority quoted is sec. 329 C.S.A.) the relative exemption of subsec. 346(e), which gave to steamships registered in any of Her Majesty's dominions about the same exemption as was provided to

United States ships under subsec. 346(ee), was withdrawn except for steamships registered in Canada. This relative exemption that is now limited to Canadian steamships is somewhat wider than the absolute statutory exemption enjoyed by United States ships in that the seaward limit of the exempted voyages for Canadian vessels extends beyond the Maritime Provinces to ports in and beyond Hudson Strait and to all United States ports north of New York.

No exemption is provided in the By-law for ships under 250 tons as permitted under subsec. 346(c). Therefore, any small foreign ships of non-dominion registry—even yachts—are subjected to the compulsory payment of dues when navigating within the District (vide Part I, p. 227).

(d) *General By-law Passed under Sec. 329 C.S.A. (Ex.431)*

The General By-law now in force is the first By-law of the new District approved by Order in Council P.C. 1960-1572 dated November 17, 1960, as amended by:

P.C. 1961-727 of May 18, 1961,  
P.C. 1962-644 of April 26, 1962,  
P.C. 1965-1174 of June 23, 1965,  
P.C. 1965-1918 of October 25, 1965,  
P.C. 1966-778 of April 29, 1966,  
P.C. 1967-998 of May 18, 1967,  
P.C. 1968-815 of April 25, 1968 and  
P.C. 1969-1243 of June 17, 1969.

Many of the features of the internal organization provided by this General By-law do not correspond to the practice being followed. These discrepancies are pointed out in Chapter C when the subject concerned is dealt with. The salient features of the organization as provided by this By-law are as follows (references are to Part I where the subject-matter is dealt with):

- (i) As in the other St. Lawrence River Pilotage Districts, the Pilotage Authority, through his local representative, administers the service, i.e., directs and assigns the pilots and collects and distributes their earnings (pp. 73 and ff.).
- (ii) The pilots are represented by a committee composed of five members appointed annually by the pilots from their number (pp. 82-84).
- (iii) There is no apprenticeship system. New pilots are recruited from qualified mariners experienced in navigating the District waters. They must have had at least two years of service as Master or deck officer in vessels trading regularly through the District (p. 252).
- (iv) The number of pilots is determined by the Authority after consultation with the Pilots' Committee (p. 257).



- (v) There is no grade system but the first licence issued is for one year of probation. If found suitable after that period, the pilot is issued a permanent licence unless the Authority deems it advisable to issue a further temporary licence valid for a period which it will fix or renew at its discretion. There is no provision for emergency temporary licences (pp. 266 and ff.).
- (vi) The pilots' status is that of *de facto* employees. They can not perform any pilotage except as directed by the Supervisor who, as a rule, must despatch them in regular turns. The equalization of trips principle does not apply. Two pilots are assigned together for a winter assignment (Dec. 1 to April 8) or to a composite navigation unit.
- (vii) No system of statutory leave is provided in the regulations. Permission for temporary leave may be granted by the Supervisor.
- (viii) For remuneration purposes, the pilots are treated as independent contractors. Officially, a pilot's remuneration consists of the dues earned by his services, or which he would have earned if he were entitled to have his services accepted (pp. 103, 187 and ff.).
- (ix) There is no provision for a Pension Fund (C. 10).
- (x) The tariff structure is based on flat rates and since 1966 increases have taken the form of a general surcharge.

—The trip rate for a full transit consists of a flat rate (\$160) even if the ship stops *en route* for loading or unloading cargo. In addition, idle time on board at intermediate ports or on account of machinery breakdown is compensated through a detention charge (\$5.00 after the first hour to a maximum of \$25.00 per day), and a transportation allowance of \$3.00 is payable to a pilot for travel to or from St. Lambert lock and land transportation expenses actually incurred at Snell lock.

—The rate for a partial transit, subject to two exceptions, consists of an amount of the full transit flat rate prorated to the distance piloted with a minimum charge of \$25.75, detention for idle time on board as above and land travelling expenses actually incurred.

—By way of exception, special flat rates have been provided since 1965 for trips involving stopping at Côte Ste-Catherine wharf: from St. Lambert lock to Côte Ste-Catherine wharf, \$40.00, from Snell lock to Côte Ste-Catherine wharf, \$160.00 and, if a full transit is effected, \$180.00.

—In 1967, special flat rates were added for a trip from St. Lambert to Port de Valleyfield and vice versa at \$96.00, plus \$25.00 berthing and unberthing charges at that port, plus detention and travelling charges as above.

—There is a \$100.00 additional charge on winter assignments.

- A movage within a port calls for a flat charge of \$15.45 or \$30.90 depending whether it involves transiting a lock.
  - The same detention charge is also made for waiting time at the boarding station.
  - The cancellation charge is \$10.30, plus a \$3.09 hourly rate after the first hour up to a maximum of \$25.75 per day.
  - Al these rates have been increased since 1965 through a surcharge which increased from 12 per cent in 1965 to 17 per cent in 1966 to 24 per cent in 1967, 34 per cent in 1968 and 40.7 per cent in 1969.
  - There is no special provision for dead ships, trial trips, pilot boat and radio rental charges.
- (xi) The contract pilot system was allowed to continue solely as a temporary measure for the protection of the acquired rights of a pilot who had been "under contract for the navigation season of 1937 with a steamship company which operated and continues to operate, for the benefit of the pilot, a pension and insurance scheme in which the said pilot has an interest, . . ." (p. 304).

The provision concerning *contract pilots* is no longer operative due to the retirement of the last two such pilots, Eucher Desgroseilliers in January 1966 and Léopold Desgroseilliers January 1, 1970 (Ex. 1540(a)). They were both employees of Canada Steamship Lines.

#### COMMENT

Since the Pilotage Authority is powerless to fix rates for services performed beyond District limits, the tariff provisions which include services between the District's western boundary and Snell lock are obviously ultra vires.

## 2. HISTORY OF LEGISLATION

The history of pilotage on the St. Lawrence River above Montreal prior to the creation of the Cornwall Pilotage District in 1960 can be divided into three periods: 1805 - 1934, 1934 - 1952 and 1952 - 1960.

### (1) FIRST PERIOD (1805-1934)

This first period was characterized by the construction and improvement of a canal system between Montreal and Lake Ontario, a distance of 188 miles, to overcome a series of rapids and a total river elevation of 226 feet; the development of pilotage during that period is linked with the growth of this canal system.

#### *Lachine Section*

The Lachine section extends from the port of Montreal to Lake St. Louis, a distance of 9 miles, where there is a river drop of 50 feet. The first improvement made there dates back to 1804 when short side canals two to

three feet in depth were constructed at the edge of the rapids. Among other craft using them were the huge freight-carrying *canots de maître* of the fur-trading companies travelling between their base at Montreal and the remote posts of the West. The first Lachine Canal proper was not completed until 1825. It was deepened from five to nine feet in 1843-1848 and a second and final enlargement, completed in 1883, provided a 14-foot depth throughout. Thence, normal river navigation resumed through Lake St. Louis for a distance of 22 miles.

Government-controlled pilotage in this section was first instituted in 1805 when Parliament imposed compulsory pilotage on vessels which were not navigated by their owners (1805, 45 Geo. III c. 9), but this legislation was short lived, being abrogated in 1836. Pilotage continued to be performed but by unlicensed pilots and at whatever price was mutually agreed upon by them and the shipowners. Government-controlled pilotage was not re-instituted until 1934 when the St. Lawrence-Kingston-Ottawa District was created (vide pp. 577-80).

#### *Soulanges Section*

The Soulanges section extends from Lake St. Louis to Lake St. Francis, a distance of 16 miles, where there is a river drop of some 84 feet. Between 1779 and 1783, four side canals with locks were constructed, giving 2½-foot depth to overcome rapids at four separate locations. The Beauharnois Canal was built on the southern shore between 1842 and 1845 to replace these earlier canals and provide a depth of nine feet. It, in turn, was replaced by the Soulanges Canal on the opposite side of the river, begun in 1892 and completed in 1899. It had five locks and provided 14-foot navigation. Thence, there was uninterrupted navigation through Lake St. Francis to Cornwall, a distance of 29 miles.

#### *International Rapids and Thousand Islands Sections*

From Cornwall, at the head of Lake St. Francis, to Chimney Point near Prescott, a distance of 44 miles, there is a total difference in water level of some 92 feet, which was overcome by a series of canals. The first of these was at Cornwall, completed in 1842 to provide a 9-foot depth, subsequently enlarged to 14-foot depth by 1900. Next in order was the Farran's Point canal, first completed in 1847 and enlarged to 14-foot depth by 1901, and the Rapid Plat canal at Morrisburg, also completed in 1847 and enlarged to 14 feet by 1904. The last in the series was the Galop canal at Iroquois, first completed in 1848; the subsequent enlargement to 14 feet was completed in 1908. Thence, ships could navigate in open water through the Thousand Islands section to Kingston, at the entrance to Lake Ontario, a distance of 68 miles.

Pilotage in the Soulanges, International Rapids and Thousand Islands sections remained free of Government control until 1934 when the St. Lawrence-Kingston-Ottawa District was created. However, agitation for the estab-



lishment of Government control started in 1913 when persons piloting in that area wrote to the Department of Marine and Fisheries requesting the establishment of a Pilotage District. Four years later, the Dominion Wreck Commissioner recommended licensing pilots. In 1925, the Trade and Labour Congress asked that a pilotage office be set up. In 1928 and 1932, the Canadian Navigators' Federation made similar requests, supported by several Members of Parliament and steamship companies.

## (2) SECOND Period (1934-1952)

### (a) *Creation of District*

Following the enactment of the Canada Shipping Act in 1934, the Government decided to assume control of the pilotage service and created a Pilotage District, known as the St. Lawrence-Kingston-Ottawa District, appointing the Minister of Marine as its Pilotage Authority. At the same time, it made the payment of pilotage dues non-compulsory within the District (Order in Council 868 of May 3, 1934).

The reasons for the creation of the District were stated in the preamble to Order in Council 868 as follows:

"That persons engaged in piloting ships on the river St. Lawrence between Kingston and Montreal and on the Ottawa river between Lake St. Louis and the Chaudiere Falls at Ottawa are not subject to any of the provisions of the Canada Shipping Act while so engaged;

That if a Pilotage District is formed and persons acting as pilots are licensed by a Pilotage Authority, a Wreck Commissioner appointed under Part X of the Canada Shipping Act will be in a position to suspend or cancel such licences if it is found the holders thereof are liable for a shipping casualty;..."

### (b) *General By-law (Ex. 1392)*

The first By-law of the District, adopted by P.C. 1594 dated July 26, 1934, provided that the pilotage service was optional and, when used, the rates were to be mutually agreed upon between the Master, owners or agents of the vessel and the pilot, either for one season or for individual trips. This situation prevailed until April 9, 1936, when an amendment to the By-law (P.C. 900) established pilotage rates. The use of unlicensed pilots was prohibited and the Pilotage Authority was authorized to impose a penalty in case of infraction, but United States vessels properly manned in accordance with United States law could "utilize licensed United States Pilots while navigating in any part of the District other than Canadian Canals."

Between April 1936 and June 1951, there were 13 amendments made to this General By-law and it was revised and consolidated into a new General By-law on June 17, 1952 (P.C. 3305) (p. 881).

With respect to the licensing of pilots, the By-law contained transitional measures and regular provisions. In order to protect acquired rights, it was provided that all persons who had been engaged in piloting in the three preceeding years and Masters or mates of vessels doing their own piloting would be granted a pilot's licence if they made application prior to

December 31, 1934, and passed with success an oral examination on local knowledge, the Rules of the Road and an eyesight and hearing test.

The regular provisions concerned the issue of new licences after January 1, 1935: the number of pilots to be licensed were to be determined by the Pilotage Authority from time to time, the qualifications required of applicants were specified and a board responsible for examining candidates was set up.

So many persons who had been acting as pilots applied for, and were granted, a licence that the number of pilots far exceeded the needs of the District. In fact, when the District was created, some 216 licences were issued and the need to issue new licences did not arise until many years later.

In July 1940, following strong and continued representations by the pilots of the District to have the payment of pilotage dues made compulsory, it was considered advisable to have the pilotage situation in the District investigated by the Honourable Mr. Justice Cannon, who had been appointed Commissioner under the Inquiries Act to inquire into the navigation of small vessels below Montreal, and with this in view a suitable reference was made in the Order in Council appointing the said Commissioner (P.C. 214-3404). However, subsequent instructions were issued to limit the inquiry to the navigation of small vessels below Montreal (vide p. 70).

(c) *Slocombe Survey, 1947 (Ex. 1452)*

In 1947, Captain F.S. Slocombe, who conducted a survey of pilotage in the main Pilotage Districts, reported on the situation in the St. Lawrence-Kingston-Ottawa District. The following points are of particular interest:

SPECIAL FEATURES

"Pilotage in this District is essentially River pilotage. An unusual feature is that except in the case of some foreign-flag vessels the actual pilotage is broken at intervals by canals, through which the Master of the vessel takes charge. A special additional rate is charged when a pilot is required to do the canalling."

"... when the district was first formed licences were issued to all persons who had been actively engaged in piloting within the limits of the District within the three years 1931 to 1933 and to masters or mates of vessels doing their own piloting, provided such persons were British subjects resident in Canada, and were under 70 years old, and could pass eyesight and hearing tests and oral examination in local knowledge and Rules of the Road."

"However, there were so many licences issued upon formation of the District that there have been no further entrants. In spite of deaths and retirements, there are still, for the 1947 season, 120 licensed pilots in this District. Only 2 of these are licensed for the Ottawa River. A large number of these licensed pilots are masters and mates of vessels and are not using their licences as pilots. They are keeping their licences in force by passing the eyesight test every year, presumably so that they will be able to use their licences if they should at a later date be without berth on a ship. There are about 50 using their licences as pilots."

CONDITIONS OF SERVICE

"A pilot who is not assigned as a special service pilot must report as soon as he has completed a pilotage and his name is placed on turn in a book. These tour-de-role pilots are called in order of preference in the book.

However, the majority of the licensed pilots who are not masters or mates of ships are special service pilots for particular companies. These men know in advance the approximate date of which they will be required and hold themselves available accordingly.

The Department maintains a pilotage office in Kingston, Ontario, (but no sleeping accommodation) in addition to the office of the Superintendent at Montreal. The By-laws require that travelling expenses shall be paid by the ship to and from the nearest pilotage office. These expenses include transportation by motorboat to or from a ship at Kingston. But if a tour-de-role pilot whose home is in Montreal takes a vessel from Montreal to Kingston he must either pay his own expenses back to Montreal or remain in Kingston at his own expense until he again comes on turn for a downbound ship, which may not be for many days."

"Each pilot collects his own fees from the owner or agent of a ship which he has piloted and there are no deductions. There is no pension scheme."

(d) *Audette Committee of 1949 (Ex. 1330)*

The Audette Committee dealt with the St. Lawrence-Kingston-Ottawa District as a completely separate matter since it found that the situation there was totally different from that prevailing in the other Districts under review, noting in particular that there was no compulsory payment of pilotage dues and no Pension Fund for the pilots.

On the establishment of compulsory payment, urged by the pilots but opposed by the shipping Interests, the Committee rejected its introduction on the grounds that it could not be made applicable to the whole of the District. Other recommendations were, *inter alia*:

- "a) that all earnings of this district should be pooled under the supervision of the Pilotage Authority;
- b) that an actuarially sound pension plan should be placed in operation in this district, so that the St. Lawrence-Kingston-Ottawa pilots may have some security upon retirement;
- c) that the number of pilots on strength in this district should be determined from time to time by the Pilotage Authority in accordance with the needs of the district;"
- "f) that all pilotage dues should be collected by the Pilotage Authority for distribution to the licenced pilots;"

(e) *Changes in Demand for Pilotage*

Prior to 1945, very few ocean-going vessels went up the St. Lawrence above Montreal. Great Lakes - overseas trade began only in 1933 when regular scheduled sailings were pioneered by Norway's Fjell line. Orange of Holland joined the service five years later but trade grew slowly during the 1930's and halted entirely at the outbreak of World War II.

For this reason, pilotage services during this period existed almost exclusively for the benefit of lake vessels. Companies with ships trading regularly in the District had their own special pilots who were bound by contract to serve only their company.

The few pilots whose services were not retained worked on a tour-de-rôle basis and, for this purpose, a list of those available for duty was kept at the pilotage offices in Montreal and Kingston.



Each pilot, whether special or tour-de-rôle, collected his own fees from the owner or agent and retained them without any deductions.

After the war, Great Lakes - overseas trade grew at a remarkable rate and greatly influenced the development of pilotage in the St. Lawrence-Kingston-Ottawa District. By 1955, flags of more than a dozen overseas lines were seen on the Great Lakes and that year 119 foreign ships shuttled back and forth from Europe making over 329 round trips during the season and carrying more than 780,000 tons of cargo. By 1958, the year preceding the opening of the Seaway, the number of foreign vessels engaged in the lake trade had increased to 187 making a total of 534 round trips during the season and carrying slightly over 1,000,000 tons of cargo (Ex. 905).

### (3) THIRD PERIOD (1952-1960)

#### (a) *Changes in 1952*

In 1952, a new General By-law for the St. Lawrence-Kingston-Ottawa Pilotage District (P.C. 3305 of June 17, 1952 (Ex. 1392)) effected a major change in the administration of pilotage. The payment of pilotage dues remained non-compulsory within the District but the Pilotage Authority was given a more important part to play in that he now became responsible for despatching pilots and collecting pilotage dues.

The gradual increase in the number of ocean vessels trading in the District was a cogent reason to warrant a reorganization and, in addition, a despatching system administered by the Pilotage Authority had been requested for some time by both the pilots and the Shipping Federation to stop Sailing Masters from piloting illegally in the District.

*Sailing Masters* were the persons engaged to assist and advise the Masters of ocean vessels during their voyage through the Lakes. As long as United States or Canadian lake vessels were the only ones trading there, pilotage was unnecessary since the Masters and officers of these ships were expert in local navigation. In the early days, the Sailing Master was generally a retired Great Lakes Master or a ship's officer with substantial Great Lakes experience. He usually joined the ocean vessel at Montreal and stayed on board until she returned to Montreal from the Lakes. The men so engaged were not considered to be pursuing a career but simply holding a part-time job which brought in some additional money. After the St. Lawrence-Kingston-Ottawa District was organized, Sailing Masters were no longer allowed to operate between Montreal and Kingston, but a number of ocean shipping companies found it more convenient to take their Sailing Masters on board at Montreal and dispense with the services of the licensed pilots between Montreal and Kingston. The same process was repeated off Kingston on the return trip, with the result that the licensed pilots of the St. Lawrence-Kingston-Ottawa District were deprived of employment.

After 1952, the majority of the pilotage assignments for ocean-going ships between Montreal and Kingston were performed by licensed pilots. The Sailing Masters continued to function, but only west of Kingston, until 1958 (vide p. 888).

The use of pilots by lake vessels was intermittent. They normally employed pilots only in bad weather, and more as a matter of convenience than necessity or safety. As a consequence, ocean vessels would sometimes lack service and suffer delays because of an unexpected request for a pilot by a lake vessel.

The Shipping Federation, supported by the pilots, made representations to the Pilotage Authority suggesting that lake vessels which arrived unannounced and requested a pilot should be refused. The Pilotage Authority did not agree claiming that vessels should be served in the order of arrival.

*(b) 1955: First Work Stoppage by the Pilots*

1955 marks the beginning of a long battle by the pilots for the compulsory payment of pilotage dues, at least in that part of the District lying wholly in Canadian territory, i.e., Montreal to Cornwall (vide Pilots' Brief of March 25, 1955 to the Pilotage Authority, Ex. 809).

Construction of a 27-foot waterway between Montreal and Kingston to replace the outmoded 14-foot system had begun in 1954. The pilots looked forward with apprehension to the time when large ocean ships would be using this new waterway, and decided to renew their efforts to obtain the compulsory payment of dues in their District.

The Shipping Federation had supported earlier requests of the pilots, suggesting, in a letter dated Dec. 23, 1953, to the Pilotage Authority (Ex. 809), that the establishment of the compulsory payment system would serve as a means to attract into the pilotage service additional well-qualified mariners to meet the pilotage needs of the District.

At the beginning of 1955, a new Committee of Pilots was appointed with a clear mandate to obtain approval for the compulsory payment of pilotage dues. The Committee retained the services of a lawyer. A brief dated March 23, 1955, was presented to the Minister of Transport.

With a view to defeating in advance the objection based on the international character of the St. Lawrence River above Cornwall, the brief recommended that the compulsory payment of pilotage dues be established only in that part of the District located wholly within Canadian waters, i.e., from Montreal to Cornwall.

The submission of this brief was followed by an exchange of correspondence and meetings were held between representatives of the Committee of Pilots and of the Pilotage Authority, but without result.

As months went by, the pilots became more restless and eventually decided to go on strike to support their demands. A general meeting of all the pilots was convened for Sunday, October 16, and thus the work stoppage began.

The strike put the Shipping Federation in a difficult position. Even though the Federation was fully in agreement with the request of the pilots, its members were hurt by the work stoppage because their ships were deprived of the pilots' services.

In order to find a way to end the work stoppage, the Shipping Federation representatives held a meeting with representatives of the Pilotage Authority and the pilots' legal adviser October 18. The situation became all the more critical because on the day preceding the strike, the Minister of Transport and his Deputy Minister had left Ottawa on a business trip and were not expected back for 10 or 15 days and little could be accomplished before their return.

The meeting concluded with an agreement that the Shipping Federation would try to persuade the Pilotage Authority to send a telegram to the President of the Pilots' Committee to the effect that the Authority would give the matter immediate attention upon return and would be prepared to meet with a joint delegation of the Shipping Federation and the pilots to review the situation.

A few days later, the Minister sent a telegram to the pilots along the lines suggested by the Shipping Federation and the pilots, on the basis of this assurance, decided to return to work.

On October 27, the Pilots' Committee and representatives of the Shipping Federation met with the Pilotage Authority in Ottawa. The records indicate that the pilots were favourably impressed by the interest shown by the Minister toward their demand.

(c) *1956: Formation of the First Corporation of Pilots*

Three and a half months later the pilots became disillusioned when on February 14, 1956, their counsel received a letter from the Pilotage Authority stating that their request had been refused.

This letter arrived during the pilots' annual meeting and, after it had been considered, counsel for the pilots replied February 21, 1956, to express the pilots' deep disappointment in the following terms (Translation):

"After your sympathetic reception of the pilots in your office last October 27th they find it difficult to believe that the Government of their country pays such slight regard to their problems as your letter would suggest. To relate the whole problem of the compulsory payment of pilotage dues merely to their present remuneration is to leave aside the pilots' two fundamental objectives, i.e., to guarantee the future of their profession in the one area where they are authorized to practise it and to ensure their general material security." (Ex. 809).

With respect to the future of the profession, the letter also indicated that the pilots were afraid of being deprived of part of their work by American pilots. Finally, the Pilotage Authority was informed that the pilots had decided at their last annual meeting to form a pilots' corporation whose main object would be to look after their common interests.

All associations of pilots which had been organized thus far were partnerships. Pilot in the other St. Lawrence River Districts were soon to follow suit and form similar professional organizations (vide Part I, p. 87).



Letters patent under the name of Corporation of the St. Lawrence-Kingston-Ottawa Pilots were granted under Part III of the federal Companies Act, on April 19, 1956. The name was changed in 1961 to Corporation of the St. Lawrence River and Seaway Pilots.

For the remainder of the year 1956 no new development occurred respecting the compulsory payment of pilotage dues.

It must be noted that the rates, which already had been raised in 1954 (P.C. 1954-843 of June 3, 1954), were raised again in 1956 (P.C. 1956-807 of May 24, 1956) but for ocean vessels only. However, by P.C. 1957-491 of April 4th, 1957, the rates chargeable to lake vessels was brought to the level of those applicable to ocean vessels.

*(d) 1957: Second Work Stoppage by the Pilots*

In 1957, it was anticipated that the Seaway would be opened in 1959 and that there would be increased numbers of foreign ocean-going ships whose personnel would, in most cases, be strangers to the Great Lakes and their navigational practices. Hence, it was necessary to appoint more pilots and arrange for candidates to be chosen and examined. An Examination Board was set up and meetings were held March 4 to 7 inclusive, 1957 in Montreal (Ex. 906). The Board of Examiners was composed of the District Supervisor of Pilots (Mr. J. Melanson), a D.O.T. representative, the Superintendent of Pilotage (Captain D. R. Jones), three members of the Pilots' Committee, one representative of the Dominion Marine Association (Captain A. Ferguson) and Captain A. Barrett of the Shipping Federation.

There were 25 candidates, 6 failed on Rules of the Road, 3 on chart work, leaving 16 for further examination of whom 9 passed as probationary pilots.

Captain Barrett stated in his report to the Shipping Federation that on March 8, 1957, the pilots' situation was that they had 54 *licensed* pilots available for duty and 16 probationary pilots, including those newly qualified, who could be called as found necessary. These figures showed an increase over 1956 when there were 27 pilots under contract and 20 pilots on tour de rôle.

Towards the end of 1957, the question of the compulsory payment of pilotage dues came up again. On October 30, 1957, the pilots submitted a brief to the Pilotage Authority (Ex. 809) in which their request on this matter was renewed. This time, the pilots put forward a slightly different proposition. Instead of asking that the District be divided into two sections, they suggested the abolition of the actual St. Lawrence-Kingston-Ottawa District with its replacement by two new Districts with a division at Cornwall. Nothing would then in their mind prevent the establishment of the compulsory payment of pilotage dues in the new district between Cornwall and Montreal because this section of the River would be located wholly within Canadian territory.

It was recommended that the statutory exemptions granted to ships by sec. 346 C.S.A. especially by paragraph (e), be retained, sec. 347 notwithstanding, so that the compulsory payment feature could be made applicable to ocean-going vessels only.

In conclusion, the brief noted that the proposed reform could be implemented without the intervention of Parliament, the Governor in Council already being empowered by the C.S.A. to take the necessary action.

The brief had been in the hands of the Pilotage Authority for a few days only when the pilots decided to go on a strike which lasted Nov. 9 to Nov. 21 (Ex. 726, p. 32).

Pilot A. Pérusse stated in his evidence that there was another factor apart from the compulsory payment of pilotage dues which contributed to the work stoppage, namely, the pilots' demand for official recognition of the 8-hour rest period between trips (Ex. 810). While such an understanding existed between the Pilotage Authority and the pilots, it had not been incorporated in the By-law because the pilots could rest when ships were in the canals since in those days they did not pilot in canals.

Moreover, the pilots thought it was the right time to go on strike in order to apply pressure on the Pilotage Authority for the compulsory payment of pilotage dues because a considerable number of ocean-going vessels were in the Lakes and would have to come out before winter.

The Shipping Federation was all the more annoyed by this strike since it still supported the pilots' request for the compulsory payment of pilotage dues. The late Captain Matheson, speaking for the Federation, stated in his evidence that on a number of occasions prior to the strike the question of compulsory payment was discussed between the Federation and the Department of Transport. The Shipping Federation put considerable pressure on the Department of Transport who always replied that it was impossible to give effect of these demands on account of the international agreement and treaties between Canada and the United States. Also at the time of the strike the Shipping Federation made representations to the Pilotage Authority, or to the officials of the Department of Transport, on this question.

Indeed, on November 5, Mr. Dudley Page, then President of the Shipping Federation, sent a telegram to the Pilotage Authority to inform him of the work stoppage by the pilots. The telegram stated further:

"Owners of ocean vessels engaged in Great Lakes trade being discriminated against by this demand of pilots as acceptance of compulsory payment pilotage dues already recognized by Federation and confirmed by letter from Federation to your Department under date December 23, 1953. It would appear that pilots' demands directed against your Department for failing to implement their demands for compulsory payment of pilotage dues. . . . Would like to emphasize Federation have over a number of years strongly supported compulsory payment of pilotage dues . . ." (Ex. 726, Appendix 3).

The Pilotage Authority reacted strongly to the pilots' decision to strike. On November 6, the same day the stoppage of work occurred, the Deputy Minister of Transport sent a telegram to pilot J. G. Chartier, Chairman of the St. Lawrence-Kingston Pilots' Committee, to the effect that their refusal to work was unlawful and irresponsible and constituted an infraction for which penalties could be enforced on each pilot. He added that the matter of

compulsory payment of pilotage dues would require a Cabinet decision and it was impossible to give any undertaking except to give the matter full consideration. The telegram concluded with an order to return to work immediately (Ex. 726, Appendix 5).

On November 11, the Deputy Minister of Transport in a further telegram to the President of the Pilots' Association ordered all District pilots to report for pilotage duties at the nearest despatching office before 9:00 a.m. November 13. The Deputy Minister pointed out that failure to do so would result in fines of \$200 per pilot to be imposed in accordance with the District By-law. He further pointed out that continued refusal to perform their duty might result in the cancellation of all licences and the rescinding of the District (Ex. 726, Appendix 6).

It should be noted that, upon hearing of the Pilotage Authority's threat to abolish the St. Lawrence-Kingston-Ottawa District, the Shipping Federation sent a telegram dated November 12, 1957, to the Deputy Minister of Transport strongly opposing this step. Despite the ultimatum contained in the telegram of November 11, the strike continued until November 21.

During the strike, the pilots received the assistance and support of the International Organization of Masters, Mates and Pilots, of which they were members at that time (they severed their connection with this International Organization in 1958). The picket lines were organized by the International Organization at Kingston, and at some ports in the United States, mainly Cleveland and Chicago. However, representatives of the Shipping Federation of Canada, Inc. made arrangements in Cleveland and were successful in preventing picket lines from being effective. Counsel for the Shipping Federation explained the situation to the labour unions in the Cleveland area with the result that when a vessel arrived in port picket lines were disregarded.

The pilots also received the support of the Sailing Masters' organization, called "Association of Great Lakes Pilots" which instructed their despatchers at Kingston to refuse to despatch Sailing Masters to vessels proceeding upbound after transiting the District. The Shipping Federation of Canada tried to no avail to make the Association change its stand pointing out that it was supporting the pilots in their demand and failed to understand why the members of the Federation should be penalized because of a difference of opinion between the Pilotage Authority and the pilots. However, the Association was adamant in its stand and continued to refuse to despatch Sailing Masters to vessels westbound from Kingston.

Capt. Matheson stated that during the strike, there were 70 ships in the system but all were kept moving although with some delays. The majority of Masters of ocean-going vessels had been trading in the Great Lakes for years and were sufficiently familiar with the route to dispense with Sailing Masters. Some of the Shipping Federation Superintendents who had traded on the Great Lakes for years also assisted in piloting ships downriver.



The strike was ended without an agreement being reached on the fundamental issue of the compulsory payment of pilotage dues, but assurance was given to the pilots that the rest period between assignments would be henceforth of 10 hours (instead of eight) and that the number of pilots would be increased by three.

No penalties or other disciplinary measures were taken by the Pilotage Authority against any pilot at any time during or after the strike.

(e) *1958: Third Work Stoppage by the Pilots*

In January 1958, an attempt was made by D.O.T. to enroll pilots as civil servants. The proposition to employ the pilots as civil servants was made to the Board of Directors of the Corporation January 8. The pilots were offered a basic salary of \$5,730.00 per annum, plus \$2,140.00 for overtime, which would make a total salary of \$8,798.00.

At a special general meeting of the Corporation the pilots unanimously rejected the proposal and the Superintendent of Pilotage was so informed by letter January 24, 1958. The Department of Transport expressed its surprise that the offer was turned down "in view of the generous provisions of the plan and the many items of protection included in it" (letter of January 30 (Ex. 820)). On Feb. 3, the pilots further notified the Department that the refusal was irrevocable and that they would not agree, under any conditions, to become civil servants (Ex. 820). The plan was rejected because the pilots did not wish to lose their status which allowed them to keep their liberty, receive higher remuneration and remain within the framework of professional associations.

The rejection of the civil service status proposal by the pilots was followed February 12, 1958, by a brief to the Pilotage Authority which stated their requests for the year (Ex. 809). Priority once again was given to establishing the compulsory payment of pilotage dues along the lines of their memorandum of October 30, 1957. The Corporation reiterated the point made verbally following that submission to the effect that it was ready to restrict its demand to ocean ships and to exclude all lake vessels from the compulsory payment of pilotage dues.

Two other recommendations were aimed at improving the pilots' working conditions: all lake vessels using pilot services between Montreal and Kingston should change pilots at Cornwall, on the grounds that it was too tiring for the same pilot to be on duty for the whole distance; ocean vessels should be compelled to employ either two pilots or one pilot and one apprentice in order to reduce the number of consecutive hours of work, which then averaged between 16 and 20 hours a day.

A final recommendation concerned the tariff; it was requested that the rate for River pilotage be increased from \$85 to \$125.

The Corporation also asked for official recognition by requesting:

- "a) That no person be despatched by the Superintendent of Pilotage to pilot a ship in the district unless he is both a licensed pilot and a member of the Corporation of the St. Lawrence-Kingston-Ottawa Pilots;
- b) That all moneys earned by the pilots be collected by the Pilotage Authority (as at present) and be handed over to the Corporation without the requirement of a power of attorney or other authorization by the pilots individually." (Ex. 809)

It appears that all these requests were disregarded except the one covering pilotage rates which was partially accepted: the rates for River pilotage, but only on ocean vessels, were increased from \$85 to \$102.50 (P.C. 1958-1043).

No progress was made in 1958 on the issue of the compulsory payment of pilotage dues. Counsel for the pilots, in a letter dated September 23 to the Pilotage Authority, expressed the dissatisfaction and concern of the Corporation of the St. Lawrence-Kingston-Ottawa Pilots "for the failure of your Department and of the Government to take the necessary steps towards establishing" this system (Ex. 809). Prior to this letter, the Pilotage Authority had informed the pilots that the Canada Shipping Act would first have to be amended before their request could be acted upon and that such an amendment would be proposed to Parliament shortly. Hence, the letter of Sept. 23 expressed the disappointment of the pilots that no amendment had been proposed to Parliament before the session came to an end that year.

Again that year, the pilots declined to work. This occurred in April and May and was in support of a Sailing Masters' strike against the Shipping Federation. As seen earlier, following the establishment of pilot despatching in the District in 1952 (p. 881), Sailing Masters had continued to operate west of Kingston to assist Masters of ocean vessels during their trips into the Great Lakes. Early in 1958, the Shipping Federation decided to establish a new system whereby the services of Sailing Masters would be restricted to the areas of the Great Lakes where they were obviously needed, namely, from Port Weller to Sarnia, including the Welland Canal and the connecting waters between Lake Erie and Lake Superior. The Sailing Masters, however, objected and went on strike when the Shipping Federation tried to implement the new system. Picket lines were set up at Kingston and other places.

Since the St. Lawrence-Kingston-Ottawa pilots and the Sailing Masters were at that time members of the same labour organization (the International Organization of Masters, Mates and Pilots), and because the Sailing Masters had supported the pilots in their strike in the fall of the preceding year, all pilots save one (pilot G. Downey) refused to cross the picket line set up in Kingston to board downbound vessels.

During the course of the strike, Canadian Overseas Shipping Limited requested and obtained a court injunction prohibiting picketing in the vicinity of wharves or premises at Kingston from where pilots would normally pro-

ceed to board vessels. An interim injunction, first granted May 2, 1958, was extended from time to time until May 12, 1958, when an interlocutory injunction was granted until trial. The pilots then decided to resume their duties at Kingston.

As stated, pilot Downey refused to accompany his colleagues in support of this Sailing Masters' strike and, in protest, resigned from the Pilots' Corporation April 21, after withdrawing the power of attorney he had given in favour of the Corporation to claim and receive the pilotage dues earned by him.

In June of that year, pilot Downey was sued by the Pilots' Corporation in the amount of \$3,075 representing the dues earned by him during the stoppage of work in April and May, and which had been paid directly to him by the Pilotage Authority. The Corporation requested the Court to cancel the resignation of the pilot as a member of the Corporation and also the revocation of the power of attorney. In support of its claim, the Corporation expressed the view that the pilot, once having joined the Corporation and given it a power of attorney entitling it to receive the pilotage dues he earned, could not resign from the Corporation and cancel such power of attorney without the consent of the Corporation, in other words, the pilot having once joined the Corporation had to remain a member of it for the rest of his life and the Corporation became entitled to all his pilotage earnings (Superior Court of Quebec, District of Montreal, No. 449862). For the Commission's comments on this point, see Part I, p. 90.

Before the case came up for hearing, the Corporation withdrew its claim and the action was settled out of court. Pilot Downey agreed to stay home until the other pilots had caught up with the number of trips he had done during the work stoppage.

(f) *1959: Problems Created by the Opening of the Seaway and Fourth Work Stoppage by the Pilots*

1959 marked the beginning of a new era for navigation in the St. Lawrence-Great Lakes waterway. The construction of the 27-foot Seaway was completed in April 1959. Vessels measuring 730 feet in length, 75 foot beam and carrying up to 7,500 tons of general cargo and 25,000 tons of bulk cargo (as compared to the 255-foot long 14-foot canal type ships carrying up to 1,500 tons general cargo and 2,500 tons of bulk cargo) could now trade between Montreal and the Great Lakes. In other words, the capacity of the new Seaway for general cargo and bulk cargo had been increased 5 to 1 and 10 to 1 respectively.

Needless to say, new pilotage procedures, regulations and tariffs had to be worked out because of the very different conditions imposed by the Seaway.



Prior to the opening of the navigation season April 25, agreement had been reached between the pilots, the shipping industry and the Pilotage Authority on two important questions: the establishment of a new tariff, and the informal division of the District at the international boundary at St. Regis, with the changeover of pilots at Snell lock, which forms part of the Seaway some 5½ miles upstream on the United States side of the River.

The shipowners were under the impression that the objective of the new tariff was to provide an annual target income of \$10,600.00 per pilot and that all parties had agreed that, if it failed to produce these earnings, the rates would be increased or, if there were an excess, they would be decreased accordingly (Ex. 726). As will be seen later, when the Shipping Federation requested a diminution of the rates in 1960 because the earnings of the pilots exceeded \$10,600.00, the pilots, through their counsel, categorically denied any such agreement. It appears that the new rates applied from the opening of the navigation season and throughout 1959, even though the Order in Council enacting them was not passed until June 22, 1959 (P.C. 1959-790). This delay was one of the causes why on June 11 the pilots threatened to go on strike.

In connection with the informal division of the District at Cornwall as proposed by the pilots in their brief of Feb. 12, 1958 (Ex. 809), it was agreed that beginning with the 1959 navigation season the changeover would take place at Snell lock and that it would apply to all ships employing pilots, and not only to lake vessels as proposed earlier. At the same time, the pilots dropped their earlier request for two pilots aboard ocean-going ships. Implementation of this agreement was to prove very difficult but when it was achieved a significant step had been made towards the formal division of the St. Lawrence-Kingston-Ottawa District into two separate Pilotage Districts as the pilots had requested for many years.

During the meetings held between representatives of the Pilotage Authority and the pilots prior to the opening of the 1959 navigation season, new attempts were made to get the pilots interested in a civil service status but without success. It was noted that at the time of these meetings the opinion prevailed amongst shipowners that the opening of the Seaway would result in a diminution of work for the pilots. It was thought indeed that many lake companies which had been employing pilots until then would henceforth dispense with them. This fear soon proved unfounded; indeed, the lack of pilots to handle the greatly increased number of ships sailing into the Seaway became one of the major problems in 1959.

The navigation season opened April 25. Things did not go well: the President of the Pilots' Corporation in a telegram dated May 14 to the Superintendent of Pilotage complained about the inexperience of helmsmen, difficulty of language and ships not being fitted properly. The telegram stated that until probationary pilots were available pilots would not take ships over

1,500 tons net through the St. Lambert lock between 7 p.m. and 4 a.m. (Ex. 813). It was explained in evidence that the 1500-ton limit had been selected because smaller vessels were used to proceeding above Montreal.

At the beginning of June, the pilots were still awaiting the appointment of probationary pilots and also the implementation of many of the changes which had been agreed upon previously. In order to put pressure upon the Pilotage Authority, the pilots thought of taking advantage of the official opening of the St. Lawrence Seaway set for June 26. On June 11, the Corporation of the St. Lawrence-Kingston-Ottawa pilots and the Corporation of the Montreal Harbour Pilots jointly presented a list of seven demands to the Pilotage Authority. It was stated that, if the pilots did not receive satisfaction by June 19, a general meeting of all pilots would be called to consider the situation and take whatever action might be decided upon (Ex. 812). Five of the seven requests concerned the St. Lawrence-Kingston-Ottawa District (Ex. 812):

- (i) that a trailer with appropriate facilities be installed at St. Lambert lock for pilots in attendance;
- (ii) that the transportation allowance be raised from \$2.00 to \$4.00 when a pilot has to board at St. Lambert lock;
- (iii) that the tariff in force since the beginning of the navigation season receive formal approval by the Governor in Council;
- (iv) that probationary pilots be appointed;
- (v) that the President of the St. Lawrence-Kingston-Ottawa Corporation be chosen to pilot the Royal Yacht for the official opening ceremony of the Seaway.

In a telegram dated June 17 the pilots were informed that most of their demands were granted. It was stated among other things that six probationary pilots would be hired by the Department with the understanding that they could join the pilotage body on the same status as other pilots when and if it was decided to make them full pilots. It was said also that the Pilotage Authority expected to arrange for a change of pilots at Snell lock within a fortnight (Ex. 812).

The six probationary pilots were appointed without delay and the changeover of pilots at Snell lock became effective July 14.

The changeover of pilots at Snell lock had been in operation for only a week when the pilots complained of being overworked. They claimed that 20 additional pilots were needed and, hence, requested that a full licence be issued to five of the six probationary pilots appointed previously as soon as an examination could be held and that 14 additional probationary pilots be appointed without delay.

About two weeks later, the President of the Corporation of St. Lawrence-Kingston-Ottawa pilots informed the District Supervisor in a telegram

dated August 4, that the pilots were physically incapable of piloting under the "so-called Cornwall split" informally arranged by the Department in recent weeks due to the pilot shortage and that, until the inadequacy was corrected, the pilots had decided to adhere strictly to the By-law under which no change of pilot would take place at Cornwall (Ex. 813).

It appears that prior to that telegram, five probationary pilots had received their full licence as requested by the pilots and that the Pilotage Authority had agreed to appoint nine probationary pilots (instead of the 14 requested) but had not yet done so.

The Department of Transport felt that the pilots were justified in discontinuing the change of pilots at Snell lock. A telegram dated August 28 from the Director of Marine Regulations to Mr. Matheson of the Shipping Federation (who had requested immediate resumption of the practice) stated that the changeover would be resumed only when the Department was assured that sufficient pilots were available for this purpose. One month later, the Department of Transport advised the Shipping Federation that sufficient pilots were available and that the changeover could now be resumed.

As soon as the problem of the shortage of pilots was settled, a new issue arose: the taxi service between Cornwall and Snell lock. Although the matter was of a minor nature, it illustrates the general attitude prevailing in the District at that time.

The procedure was that the pilots would claim from the Shipping Federation their taxi expenses to or from Snell lock, pursuant to sec. 7 of the tariff (P.C. 1959-790) which read as follows:

- "In addition to pilotage dues, the travelling expenses of a pilot other than those mentioned in sec. 6 reasonably and actually incurred in going
- (a) from any place in the district to the place of boarding; and
  - (b) from the place of disembarking to the nearest pilotage office shall, at the direction of the Superintendent, be charged."

Because the amounts claimed for taxi expenses were considerable, varying anywhere from \$4 to \$16 for a one-way trip, the Shipping Federation urged the Pilotage Authority to investigate and endeavour to establish one approved taxi service at set charges. The Pilotage Authority duly advised the Shipping Federation that this was difficult to do since the pilots could not agree amongst themselves on which taxi service to use. The Shipping Federation, therefore, with the full knowledge of the Pilotage Authority, decided to arrange for a service but the pilots refused to make use of it. They were then informed by the Shipping Federation that, if they used any other form of transportation, it would refuse to accept their charges. The pilots retaliated on October 19 by refusing to disembark at Snell lock. The Pilotage Authority, in turn, discontinued its despatching of pilots from Cornwall.

The pilots were of the opinion that the Pilotage Authority had no power to order them to use any specific means of transportation to reach the



place where they were to board a ship and that, consequently, the decision of the Pilotage Authority not to charge shipping with the travelling expenses actually incurred by a pilot who had not used the taxi service set up by the Shipping Federation was illegal and ultra vires. They were further of the opinion that, because of this illegal action, they were not obliged to follow the orders of the District Supervisor directing them to board or disembark at Snell lock.

These views were shared neither by the Shipping Federation nor by the Pilotage Authority, and their representatives met October 29 to study the course of action that should be taken as a result of the pilots' refusal to disembark at Snell lock. The representatives of the Pilotage Authority suggested alternatives ranging from the cancellation of the District to a complete take-over by the Department of Transport of all pilotage operations in the area. The two intermediate solutions called for the abolition of the District and the creation of a new one between Montreal and Cornwall with the sector Cornwall-Kingston either left completely unorganized or set up as a new District where only Government-employed pilots would provide service. The representatives of the Shipping Federation favoured the last alternative and suggested that this course of action should be taken before the beginning of the 1960 navigation season.

In the meantime, the Deputy Minister of Transport had sent each pilot, first, a telegram and, a week later, a letter informing him that, if he did not comply with the orders of the District Supervisor, the Pilotage Authority would be forced to take whatever action it considered necessary. Shortly thereafter, the Deputy Minister met with the pilots' representatives. On November 10, at a meeting of the Directors of the Pilots' Corporation, it was decided to recommend to the pilots that they should resume normal operations at Snell lock and use the taxi service provided by the Shipping Federation (Ex. 813). The pilots agreed, thus settling the last crisis in the St. Lawrence-Kingston-Ottawa District in 1959.

(g) *1960: Abolition of the St. Lawrence-Kingston-Ottawa Pilotage District*

In 1960, negotiations with the Department of Transport, instead of being held separately with each group of pilots in the St. Lawrence area, were conducted for them all by the newly formed Federation of the St. Lawrence River Pilots.

Even though at the beginning of 1960, the Shipping Federation was much concerned about the increase in the earnings of the pilots for the year 1959 and was very much opposed to any new increase in the pilotage dues, the Federation of the St. Lawrence River Pilots was successful in obtaining an increase of 3% in the tariff for the St. Lawrence-Kingston-Ottawa pilots, as a result of the negotiations which took place in the early part of 1960 (P.C. 1960-724 of May 26 (Ex. 1392)).

The two Federations were both dissatisfied with the outcome of the negotiations, one because of the requests which had been granted and the other because of those which had not. Re the progress of negotiations in this matter in the Districts of Quebec and Montreal, vide pp. 345 and ff. and 705 and ff.

With respect to the 3% increase in tariff for the St. Lawrence-Kingston-Ottawa District, the Shipping Federation was all the more disappointed in that it was convinced the pilots had agreed upon a decrease in pilotage charges if the earnings per pilot for 1959 exceeded \$10,600.00 (p. 890). According to the statistics supplied by D.O.T. the average earnings for the 1959 season, per effective pilot, were \$14,451.90 compared to \$10,165.00 for the 1958 season (Ex. 726, Vol. II, App. 19). The pilots denied any agreement for a downward revision of the tariff on the basis claimed by the Shipping Federation. Without taking sides on this issue, D.O.T. had decided upon a 3% increase in the tariff to compensate for the increase in the number of pilots at the end of 1959.

In June, the Federation of Pilots submitted a brief to the Pilotage Authority requesting immediate action on six problems, otherwise a general meeting of all the pilots would be called to study the situation (Ex. 754). One of these problems had to do with the United States pilots who were working in the St. Lawrence-Kingston-Ottawa District contrary to subsec. 354(1) C.S.A.

For some time prior to the drafting of this brief, the pilots of the St. Lawrence-Kingston-Ottawa District had been complaining about unlawful pilotage in their District. As early as September 24, 1959, the counsel for the pilots had transmitted to the Director of Marine Regulations a list of numerous instances where unlawful pilotage was alleged to have been performed giving the names of the pilots and the lines or ships involved (Ex. 808).

On February 24, 1960, the Director replied that after exhaustive inquiries it was found that in several cases there were no infractions committed and that in others the lack of evidence made it "most imprudent to proceed".

At the beginning of the navigation season, the policy was adopted to report by telegram to the Regional Superintendent, Capt. J. J. Gendron, every instance of unlawful pilotage by either an American pilot or any unlicensed person. In the month of May, at least five such telegrams were sent (Ex. 808). Throughout June, July and August, pilots who had reason to believe that an unlawful pilotage had been performed sent a telegram giving the name of the unauthorized person and the name of the ship involved. No less than fourteen such telegrams were sent (Ex. 808) during that period.

Finally, following the receipt of one such telegram dated July 22, in which the pilots complained about the grounding of a German ship with a U.S. citizen acting as pilot on board, the Deputy Minister wrote the President

of the Federation of Pilots stating that the "Department is aware of activities of non-licensed pilots in Kingston District. Solution to this difficulty involves division of this District which we hope to discuss with pilots' representatives soon." (Ex. 755).

In fact, the Deputy Minister was propounding the very solution the pilots had been seeking for some time. The brief of the Pilots' Federation dated June 7, 1960, had requested again, as a means of solving the problem posed by the United States pilots working in Canadian waters, the division of the St. Lawrence-Kingston-Ottawa District at St. Regis and the establishment of either compulsory pilotage or compulsory payment of pilotage dues in the Montreal-St. Regis sector.

On September 9, 1960, the Pilotage Authority acknowledged the brief of the Federation of the St. Lawrence River Pilots and stated that the United States authorities were being notified of instances of this nature and that charges were being laid against a Canadian offender. The Pilotage Authority added:

"We agree with you, however, that perhaps the most satisfactory way of putting an end to the practice of American pilots intruding into Canadian waters is by imposing a system of compulsory payment of pilotage dues."

The letter continued that if the Pilots' Federation were to go on record as being agreeable to exemptions from compulsory payment of pilotage dues for Canadian and United States lake vessels, the Authority would give early consideration to the imposition of compulsory payment, even if this were to require an amendment to the Canada Shipping Act.

On the whole (including the other issues), the reply of the Pilotage Authority was judged unsatisfactory and it was so informed by a letter dated September 14, advising that a general assembly of the St. Lawrence River pilots would be called at an early date "for the purpose of deciding whatever steps are required in the circumstances". (Ex. 756)

Representatives of the Federation of Pilots met with D.O.T. officials October 8 and then with the Pilotage Authority on October 12 and 13. Agreement was reached on all the issues raised by the pilots and thus a strike was avoided.

The pilots' request for the creation of two Pilotage Districts in the St. Lawrence-Kingston-Ottawa area with the division at St. Regis on the boundary line between Canada and the United States and for the establishment of the compulsory payment of pilotage dues in the new Montreal-Cornwall District was accepted, provided that both United States and Canadian lake vessels were exempt from such compulsory payment.

The formal enactments giving effect to this agreement on the creation of the new Pilotage Districts are contained in the Orders in Council of November 17, 1960, establishing the Cornwall and Kingston Districts (vide p. 871).



With respect to United States lake vessels and the privilege they would enjoy, a misunderstanding soon occurred between the pilots of the District and the Minister of Transport as the Pilotage Authority for the District. The pilots maintained their only commitment was that they would not insist on the imposition of compulsory payment of pilotage dues on United States lakers until the outcome of the negotiations which were going on at that time between Canada and the United States on the question of pilotage in the Great Lakes. The Minister maintained that the pilots had agreed not to oppose an amendment to the C.S.A. whereby the United States lakers would be exempted from the compulsory payment of pilotage dues if he considered such an exemption warranted.

The question was definitely settled in June 1961, when sec. 346 C.S.A. was amended (subsec.(ee)), exempting United States lake vessels from the compulsory payment of pilotage dues "in any pilotage district on the River St. Lawrence above the pilotage district of Montreal". This amendment was passed despite the opposition of the Federation of the St. Lawrence River Pilots (see House Ctee. Hearing on Bill C.98, May 29-30, 1961).

## Chapter B

### BRIEFS

Of the thirteen briefs dealing with pilotage on the St. Lawrence River generally, only the brief submitted by the Federation of the St. Lawrence River Pilots on behalf of the Corporation of the St. Lawrence River and Seaway Pilots (pp. 79-80), contained specific recommendations concerning pilotage in the District of Cornwall. A supplemental brief submitted by the St. Lawrence Seaway Authority also contained a recommendation affecting pilotage in that District. These recommendations are as follows (the cross references indicate where the subject matters of these recommendations are dealt with in the Report):

(1) THE FEDERATION OF THE ST. LAWRENCE RIVER PILOTS ON BEHALF OF  
THE CORPORATION OF THE ST. LAWRENCE RIVER AND SEAWAY PILOTS  
(B.28, Ex. 671)

1. *Linesmen*. "That the St. Lawrence Seaway furnish linesmen along the approach walls." (pp. 915-16.)

2. *Wheelsmen*. "That special wheelsmen be provided for all ocean vessels of more than 3,000 net tons for their passage in the Seaway; in other areas, these wheelsmen can be utilized with the consent of the captain." (pp. 917-19.)

3. *Apprenticeship*. "That an appropriate system of apprenticeship be adopted without delay in the district." (pp. 935-38.)

4. *Exemptions*. "That the only ships exempted from compulsory pilotage in the Cornwall district be the ships presently exempt from the compulsory payment of pilotage dues in the district of Montreal." (Rec. No. 4.)

5. *First voyage of a ship*. "That any ship exempt from compulsory pilotage be required to take a pilot during its first few trips in the district." (Rec. No. 4.)

6. *St. Regis—Snell Lock Section*. "That the juridical situation of the pilots between St. Regis and the Snell Lock be clarified." (Rec. No. 3.)

7. *Bridges across the Seaway*. "That the signal system be coupled with a radio-telephone service to the Caughnawaga, St. Louis and Valleyfield bridges." (pp. 919-21.)

8. *Pilot accommodation at St. Lambert*. "That an appropriate building with a telephone service be furnished to the pilots at the St. Lambert Lock." (pp. 742-43 and 954-6.)

9. *Cooperation with representatives of the Seaway*. "That a greater co-operation exists with the representatives of the Seaway with a view to obtaining the necessary information concerning the arrivals of ships in the locks." (p. 639.)

10. *Radio-Telephone*. "That the Cardinal radio-telephone station be transferred to Cornwall or the surrounding district." (pp. 909-10.)

11. *St. Lambert and Snell Locks*. "That an equitable division of the work must be made between the pilots of the districts concerned in the St. Lambert and Snell Locks." (Rec. No. 3.)

## (2) ST. LAWRENCE SEAWAY AUTHORITY

(B.61—Ex. 1469)

That, in the interest of the efficient and safe operation of the Seaway, the employment and control of pilots in the Seaway area (which includes the Pilotage District of Cornwall) be the responsibility of the St. Lawrence Seaway Authority (pp. 932-33).



## Chapter C

# EVIDENCE

### 1. GENERAL DESCRIPTION

#### (1) DISTRICT LIMITS

The Cornwall District is contiguous on the east to the Montreal Pilotage District and on the west to the Kingston Pilotage District; practical and legal problems have arisen with respect to both limits.

The Cornwall District is only indirectly concerned with the eastern limit problem, which exists simply because the upstream limit of the Montreal Pilotage District is undefined and there is no legal zone where the pilots can change over. The Cornwall District Pilotage Authority allows pilots unlicensed for its District to pilot in part of the District, i.e., between the entrance to the Seaway and St. Lambert lock, disregards sec. 361 C.S.A. by not requiring its pilots on upbound trips to pilot from the entrance to the Seaway, and on downbound trips to the downstream limit. The multiple problems that have resulted from this situation are studied on pp. 565-7, 626-9 and 713-721.

The solution lies in implementing General Recommendation 9 (Part I, p. 480), i.e., establishing the upstream boundary of the Montreal District to overlap the Cornwall District and form a joint area where the pilots of both Districts would have legal competency and could change over most economically and efficiently. This joint area should be limited to St. Lambert lock and its wait walls. The eastern limit of the Cornwall District would have to be amended accordingly so that the rest of the Seaway channel between Montreal and the wait wall would be exclusively in the Montreal District.

There is a problem at the Cornwall District western limit because it was established for reasons unconnected with pilotage. Since a pilot is entitled to disembark at the legal limit of his District (sec. 361 C.S.A.) and is without legal competency beyond such limit (subsec. 333(3) C.S.A.), this limit must be established where boarding and disembarking can be safely undertaken with the least inconvenience to shipping. Snell lock, including its approach walls, is the obvious joint territory of the adjacent Districts of Cornwall and Kingston, with the upstream boundary of the

former at the western end of the upstream wait wall and the eastern boundary of the latter at the eastern end of the downstream wait wall.

An international problem was created by the fact that the Snell lock area and five and a half miles of the downstream channel are in United States waters. The legal and logical solution would have been an international agreement by which the United States granted jurisdiction to Canada over this stretch of water for the purpose of maintaining and operating a pilotage service. For unknown reasons, this was not done at the time and when the St. Lawrence-Kingston-Ottawa District was divided in 1960 its upstream limit was perforce established where Canada's jurisdiction ended, i.e., at the boundary line (p. 871). A similar problem exists in British Columbia in Haro Strait, vide Part II, pp. 31-33, 53-56, 101 and Rec. 2, p. 199.

With the western limit so fixed, the Cornwall Pilotage Authority was faced with the dilemma of either abiding by the legal definition and inconveniencing—even endangering—shipping, or taking a practical view and providing pilotage services as far as Snell lock. It adopted the practical solution but many legal problems have resulted.

To remain within the law the Cornwall Pilotage Authority had two possible courses of action:

- (a) To establish a boarding area with the necessary pilot vessel service at the western boundary of the District at St. Regis on the Canadian side of the boundary line as joint territory for the Cornwall and Great Lakes District No. 1 pilots of both countries. This solution would have required the latter to provide service between St. Regis and Snell lock and would also have meant a substantial increase in rates to meet the substantial expenditures needed for pilot vessel service. Furthermore, apart from the inconvenience and delays imposed on vessels by obliging them to slow down to embark or disembark pilots, the restricted width of the channel and the cross-currents in the area made such manœuvres risky, *a fortiori* in adverse weather.
- (b) The other alternative would have been to adopt the procedure devised by the B.C. and American pilots for ships proceeding between Puget Sound and the Gulf of Georgia, i.e., the pilots of both Districts would have been required to board and disembark at the most convenient point in the other District and refrain from piloting outside the limit of the District for which they are licensed or registered. This would have meant little inconvenience for the Cornwall pilots because they would have been required to board and disembark as they now do in the Snell lock area. The Kingston pilots, however, would have been required to board

or disembark at the first convenient place in the Cornwall District, i.e., Beauharnois lock. This procedure would have meant a serious wastage of their time plus an increase in their number and additional travelling expenses, all of which would have resulted in a substantial rise in pilotage rates.

Instead, the Cornwall Pilotage Authority adopted an economical, logical solution with the tacit agreement of the Great Lakes No. 1 District authorities (Kingston District) whereby the latter refrained from providing service in that part of the designated waters downstream from Snell lock and only the Cornwall pilots operated there.

The situation, however, was hopelessly illegal. The Cornwall Pilotage Authority could neither fix rates covering pilotage in the sector which was beyond the limits of its District (subsec. 329(h)) nor could it force its pilots to pilot there. Not only were the pilots entitled to stop piloting when reaching the legal limit of their district (sec. 361), but they violated both sec. 375c of Part VIA C.S.A. and sec. 7 of the United States Great Lakes Pilotage Act 1960 if they piloted west of St. Regis a vessel falling under the Great Lakes legislation, since they were not pilots registered under Part VIA C.S.A.

Furthermore, because the practical solution adopted was not based on legal grounds, the Cornwall Pilotage Authority was placed under the obligation to yield to the pilots' pressure whenever they threatened to stop piloting upstream of the District boundary if their demands (unrelated to that question) were not granted (e.g. the St. Lambert lock dispute, pp. 713 and ff.).

It also placed the Department of Transport in the dubious position of ordering Masters and shipowners of British lakers to violate the compulsory pilotage requirement stipulated for the Great Lakes system in Part VIA C.S.A. and in the United States Great Lakes Pilotage Act 1960. The problem arose because the British lakers which are subject to compulsory pilotage in the Great Lakes system but were then exempted from the compulsory payment of dues in the Cornwall Pilotage District did not employ a pilot as they should have to comply with the Great Lakes compulsory pilotage requirement in that 5½-mile sector. The Department of Transport wrote to the companies concerned reminding them of the statutory requirement. Although the shipowners did not comply with the Department's notification, no action was taken against them, obviously because the Department was, in fact, inviting them to commit the offence created by sec. 375c C.S.A. and by the corresponding provision in the United States legislation, i.e., while subject to compulsory pilotage, employing to pilot their vessels persons who were not registered pilots for the waters concerned. From the practical point of view, but still not legally, this problem connected with British lakers was resolved when, except for steamships of Canadian registry, the relative exemption of subsec. 346(e) C.S.A. from the compulsory payment of dues in



the waters of the Cornwall Pilotage District was withdrawn by regulations made by the Cornwall Pilotage Authority under sec. 347.

A legal solution was attempted in 1966 during the up-dating of the 1961 Memorandum of Arrangements between Canada and the United States concerning pilotage west of the boundary line near St. Regis (Ex. 433). This international agreement<sup>1</sup> contained the following relevant provisions:

*"Participation in Pilotage Service"*

- Subsec. 3(c) states "Pilotage between Snell Lock and the Eastern boundary of District No. 1 shall be performed exclusively by Canadian pilots who shall be registered, in such number as the Minister may determine, for service in only those waters; . . ."

*"Dispatching"*

- Subsecs. 4(a) and (c) give responsibility to the Minister of Transport for "organizations and facilities for the dispatching of pilots and related services, including pilot boats," for the sector from St. Regis to Snell lock, the facilities to be located at Montreal, which, however, could be changed at the discretion of the Minister.

*"Other Charges"*

- The agreement does not provide pilotage rates between St. Regis and Snell lock but, according to subsec. 11(b), such rates could be established with the Minister's approval.

The intention of the Department of Transport in obtaining this concurrence by the United States was not to have the pilotage service in the St. Regis/Snell lock sector performed by Canadian registered pilots of Great Lakes District No. 1, nor was it to create a new pilotage organization with registered pilots specially appointed for this sector, which would have meant a changeover of pilots at St. Regis. The intention was to extend the Cornwall licensed pilots' legal competency up to Snell lock by issuing them registration certificates for the sector under Part VIA C.S.A., which in fact was done on August 22, 1965 (Ex. 1540(k)).

*COMMENTS*

Apart from the question of the validity of the registration certificates so granted, which appear to have been issued without the appraisal and the registration requirements of sec. 5 of the Great Lakes Pilotage Regulations being complied with, (the exemption contained in subsec. 5(2) of these regulations applies only to the Kingston District licensed pilots), only a

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<sup>1</sup> These provisions in the 1966 memorandum were not reproduced in the 1969 and 1970 revisions of the Memorandum of Arrangements which now merely states the principle of parity in the number of United States and Canadian registered pilots within the Great Lakes system as a whole.

partial solution was achieved. While it solved some aspects of the problem, it confused the legal situation by subjecting the Cornwall pilots to direction by two distinct legal authorities, i.e., the Cornwall Pilotage District and the administration responsible for pilotage in the designated waters of the Great Lakes Basin (sec. 375A C.S.A.). Furthermore, there is no way of forcing a Cornwall licensed pilot to accept such registration certificate or to retain it when issued as a condition to holding his licence for the Cornwall Pilotage District.

The solution was also partial from another point of view since the legal problem of the pilotage rates involved was not legally settled, an argument that the Cornwall pilots have invoked (p. 972). Despite the fact that when the Cornwall Pilotage Authority fixed the amount of the rates in its By-law it took into consideration the part of the services rendered in the St. Regis/Snell lock sector, such rates can not have any legal effect with regard to services rendered beyond the District limits, since the regulation-making power of the Pilotage Authority is limited to the confines of the District. To resolve this legal problem, it would have been necessary, first, to reduce the Cornwall rates to cover only these services rendered up to the St. Regis limit of the District and, second, for the Governor in Council to fix appropriate rates under subsec. 375C (e) C.S.A. for the transit of the St. Regis/Snell lock sector, but this was not done.

As stated earlier, it is considered that the appropriate solution is to have this sector of the St. Lawrence Seaway covered by an international agreement as a case of exception, and to grant exclusive jurisdiction over it for pilotage purposes to Canada to be dealt with as if these waters were Canadian waters (and not designated waters under the terms, conditions and organization set out in the Memorandum of Arrangements). The western limit of the Cornwall District could then be moved westward to Snell lock and the changeover zone could be specified as the Snell lock area.

## (2) PHYSICAL FEATURES

The Cornwall Pilotage District comprises that stretch of the St. Lawrence River from the entrance to the St. Lawrence Seaway near Montreal to the international boundary in the vicinity of St. Regis Island, a distance of approximately 77 statutory miles. It consists essentially of a series of four new Seaway locks 766' x 80' x 30' with connecting canals and river channels which may be described briefly as follows:

### (a) *Seaway Approach and St. Lambert Lock*

The channel, with its protecting dyke which gives access to the Seaway from the harbour of Montreal and marks the eastern limit of the Pilotage District, begins just east of the Jacques Cartier Bridge, passes beneath the bridge and extends for 3 miles before reaching the first lock

of the Seaway, St. Lambert lock, at the southern end of Victoria Bridge where there are lift spans and rail and road traffic diversions.

St. Lambert lock raises ships some 15 feet from the level of Montreal harbour to Laprairie Basin through which the ship channel, called the South Shore Canal, sweeps in a great  $8\frac{1}{2}$ -mile arc between its protecting embankments to the second lock.

*(b) Laprairie Basin and Côte Ste-Catherine Lock*

This lock raises ships from Laprairie Basin 30 feet to the level of Lake St. Louis, thus by-passing the Lachine Rapids. Beyond it, the South Shore Canal continues for another  $7\frac{1}{2}$  miles before reaching Lake St. Louis. Over this canal tower the piers which give Honoré Mercier highway bridge 120 feet clearance. Further upstream, the Canadian Pacific Railway bridge has had two lift spans installed to allow ships to pass.

*(c) Lake St. Louis and Lower and Upper Beauharnois Locks*

Entering Lake St. Louis, ships proceed some 12 miles by dredged channels before reaching Lower Beauharnois lock at the west end. This lock, by-passing the Beauharnois Power house, raises ships 41 feet to a short canal leading to Upper Beauharnois lock, where they are again lifted 41 feet to the level of Lake St. Francis. After some 13 miles in the Beauharnois Canal, ships enter Lake St. Francis and proceed westward some 30 miles by dredged channels to the head of the lake and the international boundary near St. Regis which marks the western limit of the District.

### (3) THE ST. LAWRENCE SEAWAY

*(a) General Description*

The St. Lawrence Seaway in its broadest sense is a deep waterway extending some 2,300 miles from the Atlantic to the head of the Great Lakes. The St. Lawrence River system from the level of Lake Superior to the Atlantic drops in all 602 feet: 30 feet from Lake Superior to Lake Erie, 326 feet through the Welland Canal, 226 feet from the level of Lake Ontario to Montreal and 20 feet from Montreal to the Atlantic.

Strictly speaking, however, and within the meaning of the St. Lawrence Seaway Authority Act, the St. Lawrence Seaway extends from Montreal harbour to Lake Erie and includes the Welland Canal. In this reach of the River, some 365 miles long, the Governments of Canada and the United States, through their respective agencies, built in 1954-1959 seven locks for 27-ft. navigation to replace the old 22-lock 14-ft. system. They also built the connecting canals and dredged many miles of river channels to required specifications.

The Canadian agency, the St. Lawrence Seaway Authority, constructed (and now operates) four of these locks and accompanying canals between



Montreal and Cornwall, namely, the St. Lambert, Côte Ste-Catherine, Lower and Upper Beauharnois locks, all within the Cornwall Pilotage District. The Seaway Authority also built a fifth lock and canal at Iroquois, Ontario. The American agency, the Saint Lawrence Seaway Development Corporation, built (and now operates) the remaining two locks and canal in the International Rapids section between Ogdensburg, N.Y., and St. Regis, namely, Snell and Eisenhower locks.

The minimum width of the Seaway channels is 200 feet when provided with two embankments, 300 feet when there is only one embankment and 450 feet in the open reaches. All channels have a minimum depth of 27 feet.

(b) *Administration*

The administration of that part of the Seaway under Canada's control is entrusted to the St. Lawrence Seaway Authority under the St. Lawrence Seaway Authority Act passed by Parliament in 1951 (R.S.C., c. 242).

By an Act of Congress passed in 1954, the Saint Lawrence Seaway Development Corporation was entrusted with that part of the Seaway under the control of the United States (33 U.S.C. 981).

The St. Lawrence Seaway Authority is a Crown Corporation classified in the Financial Administration Act (R.S.C., c. 116) as a proprietary corporation. It is administered by a president and two other members while the management of the United States corporation is vested in a single administrator.

Both the Canadian Authority and the United States corporation have administrative and financial obligations quite similar in principle. In both cases, for example, the navigation works are to be self-liquidating. In both, too, the legislation requires that navigational rules be prescribed and that operating organizations be established.

The area under the jurisdiction of the St. Lawrence Seaway Authority is divided into two Regions:

- The Eastern Region, with headquarters at St. Lambert, P.Q., extends from the Seaway entrance at Montreal to Lake Ontario and includes all the new 27-ft. Seaway facilities built by Canada during 1954-1959, namely, the St. Lambert and Côte Ste-Catherine locks and South Shore Canal; the Upper and Lower Beauharnois locks; the Iroquois lock; the dredged channels in Lake St. Louis, in the Beauharnois Canal, in Lake St. Francis and on the Canadian side of the boundary waters between Cornwall and Kingston.
- The Western Region, with headquarters at St. Catharines, Ont., is chiefly concerned with the Welland Canal. It also includes the Canadian lock and canal at Sault Ste Marie, Ont.

**(c) Regulations**

Section 19 of the St. Lawrence Seaway Authority Act provides that:

- “(1) The Authority may, with the approval of the Governor in Council on the recommendation of the Minister, make regulations for the administration, management and control of the works and property under its jurisdiction including
- (a) the regulation and control of vessels navigating a canal or pertinent works;
  - (b) the regulation of plant, machinery or appliances for loading or unloading vessels in a canal; and
  - (c) the seizure, detention or sale of vessels, goods or cargo in respect of which any sum is due for tolls and is unpaid or in respect of which any provision of this Act or any regulation has been violated.
- (2) A person who violates a regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.”

Pursuant to this section, the St. Lawrence Seaway Authority has enacted the Seaway Regulations which were approved effective April 1, 1962, by Order in Council P.C. 1962-390. The Regulations, which have since been amended from time to time, are contained in the Seaway Handbook described later.

In order that these Regulations may be uniform throughout the Seaway, they were issued jointly by the St. Lawrence Seaway Authority and the Saint Lawrence Seaway Development Corporation. In so far as the Regulations are applicable in the United States, they were made by the Saint Lawrence Seaway Development Corporation pursuant to the Act of May 13, 1954, as amended, 33 U.S.C. 981-990.

Many sections of the Seaway Regulations provide that a ship must comply with “the directions given by the Authority” or act in “the manner prescribed by the Authority.”

Pursuant to these sections, the Seaway Authority has issued jointly with the Development Corporation seven circulars to define its directions. These circulars are given effect to by section 22 of the Seaway Regulations which provides:

“Where a vessel is required by these Regulations to comply with any direction of the Authority or to do anything in a manner prescribed by the Authority, the vessel shall be deemed to comply with the direction or prescription if it complies with the relevant directions and prescriptions set out by the Authority in any current Seaway Circular, unless an officer or a station requires the vessel to do otherwise.”

The current Seaway Circulars are:

- Circular No. 1: Pre-Clearance and Security for Payment of Tolls
- Circular No. 2: Condition of Vessels
- Circular No. 3: Radio Communications
- Circular No. 4: Transit Instructions
- Circular No. 5: Dangerous Cargo
- Circular No. 6: Toll Assessment and Collection
- Circular No. 7: Pleasure Craft (Seaway Handbook, as amended April 1, 1970, Ex. 470).

(d) *The Seaway Handbook* (Ex. 470)

The Seaway Regulations, Circulars and certain other information respecting the transit of vessels in the St. Lawrence Seaway are contained in a joint publication of the St. Lawrence Seaway Authority and the Saint Lawrence Seaway Development Corporation, called the Seaway Handbook, published in loose leaf form for the benefit of Masters.

According to sec. 19 of the Seaway Regulations, a copy of the Regulations and of each current Seaway Circular shall be kept on board every vessel in transit on the Seaway.

(e) *Condition of Vessels for Transit*

Section 5 of the Seaway Regulations provides:

"(1) No vessel shall transit unless

- (a) it is properly trimmed and in a condition determined by the Authority or an officer to be safe and satisfactory to it or him; and
- (b) it is equipped with such apparatus, equipment or machinery as the Authority deems necessary for safe transit.

(2) An officer may refuse to allow a vessel to transit when, in his opinion,

- (a) the vessel, its cargo, equipment or machinery are in such a condition as to prevent safe or expeditious transit by that vessel; or
- (b) the vessel is manned with a crew that is incompetent or insufficient in numbers.

(3) Where an officer refuses to allow a vessel to transit, that vessel shall not transit until an officer grants it specific permission to do so."

Seaway Circular No. 2, as amended April 1, 1969, deals also with the condition of vessels, namely, dimensions, draught, draught markings, masts, protruding bridges, fenders, discharge pipes, landing booms, radiotelephone equipment, mooring lines, fairleads, hand lines, anchor marking buoys, ballast, stern anchors, propeller direction alarms, sewage disposal systems, oily water separators, rudder angle indicators, gyro compasses and radar equipment.

With respect to the dimension of the vessels, Circular No. 2 only reaffirms the provision of paragraph (2) of Section 3 of the Seaway Regulations. This paragraph reads as follows:

"Subject to these Regulations, every vessel that does not exceed seven hundred and thirty feet in overall length and seventy-five feet six inches in extreme breadth, including permanent fenders, may transit during the navigation season."

Respecting draught, Section 3, paragraph (4) provides that:

"No vessel shall transit unless the maximum draught of the vessel does not exceed the draught currently prescribed by the Authority for the part of the Seaway in which the vessel is travelling."

The maximum draught was increased in 1963 from 25' to 25'6", and to 25'9" in 1968. The Seaway Authority sees that this maximum draught limit



is not exceeded. Ships with excessive draught are required to discharge water ballast, or trim ship, or even in extreme cases discharge cargo until they are within the draught limits of *25 feet 9 inches*.

There are no regulations requiring ships to have minimum ballast. Circular No. 2 states only that vessels not adequately ballasted may be refused transit or delayed. The possibility of setting some limiting minimum draught was explored but it was found impossible to define it in such a manner that it would fit various possible situations.

*(f) Inspection of Vessels*

Every ship before transiting for the first time must be inspected by Seaway personnel but there are no further obligatory inspections. This inspection had a double purpose: to ensure, first, that the equipment complies with the requirements and, second, that the Master is acquainted with the canalling procedure, the proper method of coming to a wall without tug assistance, landing a man with the landing boom, getting lines out and handling lines in the lock. When the ship returns into the Seaway no new inspection is conducted although this time a different Master may be on board, in which case there will be no one, except the pilot, to brief the Master on Seaway procedure.

Inspection takes place at the Longue-Pointe anchorage while the ship is having her customs and health inspection.

In 1963, there were two inspectors, both Master Mariners. One had many years at sea as well as years of experience as a pilot before the Seaway opened. The other had a certain amount of experience in Great Lakes navigation, and considerable deep sea time.

Although there is no inspection system after the first Seaway trip, pursuant to section 20 of the Seaway Regulations, an officer may board any vessel and examine equipment or cargo and inspect the crew, and may refuse to allow a transit if he is not satisfied (subsec. 5(2)). Ships have occasionally been stopped for an examination of their steering, engine or other equipment.

Mr. R. J. Burnside, who represented the Seaway Authority at the Commission's hearings, said that the Authority was relying on pilots to help prevent vessels unsafe for any reason from entering the Seaway by trying to convince the Master to remain in harbour and to consult the Seaway Authority if he insists on proceeding.

One of the reasons why a vessel may be refused entry or delayed is insufficient crew (Regs., subsec. 5(2)). Mr. Burnside testified that ocean ships particularly have a tendency to be short staffed, both officers and men, so that they find it difficult to maintain 24-hour progress through the system since they must use all their crew practically all the time. He said that he

had received complaints from officers to the effect that they had to remain on the bridge much longer than they were accustomed to. This deficiency is most noticeable in the Welland Canal where ships spend many hours continuously tying and untying at the approach walls and the lack of crewmen causes many difficulties. The Seaway Authority did not consider itself responsible for taking steps to correct the situation but hoped the trade would take the necessary measures.

(g) *Transit Regulations*

(i) *Traffic control system*

There are six Seaway stations between Montreal and Lake Erie which are used for vessel traffic control purposes only:

Upper Beauharnois Lock	— Traffic Control Sector #1
Eisenhower Lock	— Traffic Control Sector #2
Iroquois Lock	— Traffic Control Sector #3
Clayton, N.Y.	— Traffic Control Sector #4
Picton-Oshawa, Ont.	— Traffic Control Sector #5
Welland Canal Headquarters	— Traffic Control Sector #6

These stations operate on assigned VHF frequencies for working, safety and calling, and for emergency. Vessels intending to enter, or in transit, must report on the assigned frequency to the designated station when opposite one of the ten Calling-In Points giving the name of the vessel, position, destination, draught and cargo; they must also maintain a listening watch on the assigned frequency while within a Seaway Traffic Control Sector.

Vessels navigating in the Cornwall Pilotage District are under the control of the Seaway station at Upper Beauharnois lock.

Modern electronic equipment, such as closed circuit television and visual display boards, was introduced into the Welland Canal to assist in the control of traffic. Plans now call for implementing a fully integrated computer-assisted traffic control procedure on the entire Seaway by 1971. Traffic control centres will be located at St. Lambert, Que., Massena, N.Y., and St. Catharines, Ont., and will have small computers connected to a central computer facility at Cornwall, Ont., which will act as a data bank and will be used to do strategic planning for the whole of the Seaway system.

(ii) *Proceeding in and out of the Seaway*

Traffic control in and out of the Seaway used to be effected through liaison between the Seaway despatchers stationed at Upper Beauharnois lock and the Montreal Harbour Master. Since April 1968, the DOT Marine Traffic Control System has superseded the Harbour Master in that function.

When a ship in Montreal harbour, either at a berth or at an anchorage position, is ready to proceed into the Seaway, she requires a Marine Traffic Control clearance from the Montreal Control Centre of the St. Lawrence Marine Traffic Control System. The Montreal Traffic Controller in turn seeks permission from the Seaway Traffic Control System for the ship to enter the Seaway. The Seaway Traffic Controller, after ascertaining the traffic situation at St. Lambert lock grants permission to proceed if there is no traffic congestion or as soon as the way is clear. When these instructions are received, they are transmitted to the ship by the Montreal Centre Traffic Controller who fixes the departure time after considering the state of the traffic in the harbour at the moment. A clearance expires 15 minutes after it has been granted and a fresh clearance must be obtained if the ship has been unable to proceed.

The same procedure is followed for ships in transit through the harbour for the Seaway. These ships must seek the same clearance instructions before entering the jurisdiction of the Montreal Control Centre at Tracy, just above Sorel. If permission to proceed into the Seaway is to be delayed, the ship is then ordered to anchor at Longue-Pointe or Lanoraie as instructed by the Marine Traffic Controller and to wait until clearance is granted.

For ships downbound from the Seaway, the reverse procedure is followed with the difference that ships may not be delayed in the Seaway. If a ship does not stop in the harbour, clearance is automatic. If a ship is destined to a harbour berth, the information is relayed by the Seaway Traffic Controller to the Montreal Centre Traffic Controller who, in turn, seeks berthing instructions from the Harbour Master. If the requested berth is available, instructions to proceed are given; otherwise, the ship is required to tie up at the wait wall after she has cleared the lock; if there is no position that could be made available at the wait wall, the ship is required to proceed to an anchorage position until berthing instructions are received and transmitted to her by the Montreal Centre Traffic Controller.

*(iii) Proceeding through the Seaway*

As ships proceed up or down the Seaway there are various calling-in points where they must contact the designated Seaway station to report their position. On the basis of the time a ship arrives at a given location and her ETA at the next lock, she is ordered to proceed or anchor.

There is always a safe anchorage between the lock a ship is approaching and each calling point. For this reason, the Seaway Authority's control over traffic extends beyond the locks and canals proper and into the dredged navigation channels in Lake St. Louis and Lake St. Francis, and in the Canadian section of the River above Cornwall (vide Regulations, p. 906).

Since all the locks in the Eastern Region of the Seaway are single, a downbound ship normally enters as soon as an upbound ship leaves. When



a ship reports, the despatcher must judge the progress of ships already in, or at the wait wall to which the reporting ship is heading, before ordering her to proceed or anchor.

(iv) *Speed regulations*

The Seaway Authority controls the speed of vessels in the areas under its jurisdiction in order to coordinate upbound and downbound movements of vessels and to achieve the maximum efficiency of lockage operations. This control also serves as a measure of protection for canal banks which can be heavily eroded if ships speed in confined waters. Experience has also shown that orderly, consistent speed "is conducive to the greatest output of the system".

Mr. Burnside stated that efficiency and safety were the two guiding principles when the present rules on speed were adopted (Circular No. 4, Transit Instructions). The maximum speed in the Beauharnois Canal is nine MPH over the bottom and seven MPH elsewhere in the system. On account of the current, a downbound ship in the Beauharnois Canal could not maintain proper controlling speed at seven MPH under normal conditions (Ex. 470).

The speed limit does not apply in the lake areas. Pilot Pintal said, however, that ships must proceed slowly (perhaps 5-6 knots) in Lake St. Louis because there are many summer residences from Shadow Bay to Pointe Claire, as well as boating and yachting activities.

Pilot Pérusse testified that a ship may overtake between the check points fixed by the Seaway Authority for the purpose of establishing the order in which ships will lock through. He has raced other ships in such areas and thinks the procedure is not dangerous if the pilots of both ships know how to meet. The slower ship will usually give way if the pilot knows the overtaking ship is faster.

The Seaway Authority has set no minimum speed. Circular No. 4 states only that every vessel in transit and under way shall proceed at a reasonable speed and not delay other vessels unduly. Mr. Burnside informed the Commission that slow vessels were very troublesome. Masters delayed their ships for various reasons: some had given an ETA, others were over cautious. It is a rather delicate matter to advise a Master that he must speed up because he can always claim that he is proceeding at the maximum safest speed. Mr. Burnside thought that as traffic increased in the future despatchers would have to direct Masters more than before.

The speed of a vessel is checked by reference to time of departure and arrival at all structures, including bridges. If a certain ship has the reputation of either speeding or dawdling, she receives special attention. Various spot checks of the speed of ships in the canal are also conducted occasionally.

A ship which exceeds the speed limit or impedes traffic by going too slowly is guilty of an offence and, pursuant to sec. 16 of the Seaway Regulations, is liable on summary conviction to a fine not exceeding one thousand dollars.

(h) *Lockage Procedure*

When an upbound ship approaches a lock, she is guided by the signal light at the downstream end. If the light is solid red, she must not approach within a certain distance and must be prepared to tie up at the wait wall; if the red light is flashing, the structure is being prepared. When the lock is ready, the light turns to green. The Master must adjust according to these signals.

Each lock is manned by a lockmaster and four linesmen and two operators, one at each end—a minimum total of seven.

The four linesmen throw hand lines from the lock wall to the deck, the crew make them fast to the hawsers and the linesmen draw them up with the aid of car haulers. They normally accompany the ship at slow walking speed and secure the hawsers on the appropriate bollards.

If the lockmaster calls for a "check" because the ship is moving too fast, the Seaway linesmen must secure the lines on the bollards immediately. At the same time, the Master or the pilot, as the case may be, must order engines astern. But the lines must be in a checking position to take way off the ship. The time factor is quite important in such cases because there is little interval for action when a ship enters a lock too fast.

When the ship is secured on her lines, the fender boom is closed to protect the gates in case the engine room is given a wrong order and the ship goes astern instead of ahead, as happens once or twice a year.

Water is then pumped into the lock and the ship rises. During that period the ship's crew must attend the winches and keep the lines taut, because there is always a possibility of a forward or astern motion being applied to the ship by the entrance of the water.

A fairly shallow lock fills in about six minutes; some of the deeper locks take eight.

At St. Lambert lock, automobile and train traffic must be diverted from the upper to the lower bridge or vice versa before the gates are opened. This has to be arranged through the C.N. despatcher in St. Lambert who controls the locking switch.

When the gates open, the fender booms are raised and the ship's lines are cast off. The signal there is a red light on the fender boom which turns to white; normally the Master or the pilot signals within a few seconds to cast off and the ship is free to proceed on her wheel.

It was stated that the procedure is essentially the same at all locks but there are individual differences due to bridges and varying lifts.

The Seaway Authority considers that the Master is always responsible for controlling his ship throughout locking operations, even though a pilot is on board to con the ship into the lock, govern its speed and direction and give engine orders.

(i) *Navigational Problems*

(i) *Currents and weather*

*Currents*—There is no tide in the District. Outside the canals, the current generally runs along the centre of the channel. In places, strong currents render ships' movements hazardous, especially near Lower Beauharnois lock and Snell lock where the current varies with activities at nearby dams. In the spring, the current in the District varies only in velocity and not in direction.

*Weather*—Little evidence was given on prevailing atmospheric conditions but it appears that this region is subject to frequent spring and autumn fogs (ships often encounter varying winds, especially along the approach walls).

The entrance to St. Lambert lock is difficult because it runs nearly straight north and south and the prevailing winds are toward the west. Even with a moderate wind, the pilot has to be careful to maintain sufficient steerageway to make the lock.

Because lake vessels have a lower silhouette they are easier to handle than ocean vessels at walls or locks.

(ii) *Squat*

The St. Lawrence Seaway has a controlling channel depth of 27 feet. The pilots claimed that, when a ship has a draught of  $25\frac{1}{2}$  feet, squat sometimes occurs and makes her more difficult to control (Ex. 671, para. 111).

Pilot Pintal observed that the Seaway charts indicate only the 27-foot controlling channel depth and suggested that it would be more advantageous to pilots if the actual depth were shown, so that ships could travel at full speed at greater depths and could avoid squat by slowing down before reaching minimum depths.

When squat occurs, a ship vibrates as if she were rubbing the bottom slightly.

In the Welland Canal, for instance, ships have operated without difficulty for many years with an under keel clearance of 18 inches and, while the Seaway has been in operation, there have been no instances of a ship grounding in the channel due to squat and no difficulty has been experienced with ships loading to the limit. The Seaway representatives added that their



only difficulty was that operators were anxious to take advantage of the new limit and consequently overload.

(iii) *Interference with visibility by derricks*

The Pilots' Federation requested in one of their general recommendations that steps be taken to ensure that the pilot's visibility from the bridge is not obstructed by derricks and samson posts. If derricks are not stowed so as to permit a clear view, they create a serious safety hazard, especially when navigating in narrow channels and manoeuvring at close quarters in locks or while berthing. This is particularly true of bridge-aft ships where there may be as many as 8 to 12 sets of masts forward of the bridge. When samson booms are raised, they add a further obstruction to the view ahead. When this occurs, it is the pilot's duty as a safety measure to request the Master to have the derricks lowered. It was reported that most Masters are very cooperative in this regard and even ask the pilot's permission to raise or lower booms, but occasionally such cooperation is not extended despite the pilot's request. For this reason the pilots request that they should have formal authority to require Masters to abide by their instructions.

This problem does not come within the scope of pilotage regulations but of general safety regulations. The Department of Transport has dealt with it through Notices to Mariners. For instance, Notice to Mariners No. 41 of 1961 (Ex. 897) reads as follows:

"The attention of masters of vessels navigating in narrow channels, locks, canals or other restricted waters is directed to the serious visibility hazard to pilots and others caused by vessels steaming with derricks in a hoisted position.

In the interests of safe navigation, Masters concerned are therefore urged to ensure that derricks forward of the bridge or conning position are stowed in such a manner as to allow an unobstructed view ahead."

However, because this matter (like the question of obliging lightly loaded vessels to carry sufficient ballast (p. 319)) affects safety, a pilot should refuse to take charge of the navigation of a ship if the Master refuses his request. In such a case, the pilot should immediately report the incident to the pilotage office by radiotelephone and then assist the Master to the best of his ability.

(iv) *Pleasure craft and ships not sharing the channel*

As in the other St. Lawrence Pilotage Districts, the pilots in the Cornwall District have complained about pleasure craft approaching too close to ships in the Channel, thereby causing alarm and increasing the difficulty of ship handling. When such an incident occurs, it is very difficult for the pilot to take down the licence number of the craft being operated dangerously so the legal action can be taken.

Pilot Pérusse stated that upper lakera do not generally share channels properly because they line up with the range lights and refuse to deviate.

Pilot Desgrosseilliers also said that on a number of occasions he encountered a ship in the centre of the channel and was not accorded the right of way, but he added that these ships are not only lake vessels but sometimes ocean-going vessels employing a pilot. Pilots Pérusse and Desgrosseilliers acknowledged that they had never lodged a complaint about any of these occurrences.

(v) *Linesmen at the approach walls*

Since there are no Seaway linesmen available to take the mooring lines of a vessel which is obliged to tie up at a wait wall, the lines are taken ashore by a member of the crew on a boom swinging out from the bow. This operation must be carried out quickly and the lines taken up rapidly because the vessel is moving through the water and may be affected adversely by the wind.

Difficulties are encountered particularly with ocean-going vessels but it is to be noted that they and lakers differ greatly in shape. A laker can move closer to the wall with no concern for overhanging superstructure whereas an ocean-going ship is held off by the flare of her bow. Furthermore, foreign-going seamen are not trained to land from a boom and they appear to be very nervous.

The Corporations of the St. Lawrence and Seaway Pilots of the Upper St. Lawrence Pilots have both recommended "that linesmen be provided on the approach walls, by the Seaway Authority" (Ex. 671E, paras. 643 and 672.) The pilots' brief points out that linesmen are provided at the Kiel Canal, at Manchester and in the canal which leads from IJmuiden to Amsterdam (Ex. 671E, para. 644).

The main reason for the proposed change is to lessen the chances of injuries to seamen and damage to ships.

Pilots Pintal and Pérusse concurred that it was dangerous to land a man at the approach wall in adverse weather. When there is a wind, a ship must maintain a certain speed to reach an approach wall, more than one attempt may be necessary and in the process a man on a landing boom might be killed or injured (as has actually occurred). They felt that, if Seaway linesmen were available, ships could be secured at the first attempt and avoid damage.

According to the Seaway Regulations, every ship must be fitted with a landing boom, but there is no provision stating that it must be of a specific character. It is the general policy of the Seaway Authority to interfere as little as possible with ships' fittings. Mr. Burnside said, however, that the accident which took the life of one of the sailors aboard M.V. *Salah Eldin* drew the attention of the Seaway Authority to the fact that many ocean ships still tended to fit their booms somewhat differently than inland experience had proven satisfactory and generally safe over the years. A Seaway Notice was issued advising them to adopt the recommended fittings (Ex. 476).

(vi) *Cost of linesmen for approach walls*

Re the cost of linesmen, Mr. Burnside reported July 6, 1963, that an estimate had been made of the annual cost to provide three shifts of linesmen at thirty tie-up walls from Montreal to Lake Erie: it amounted to \$1,270,000.00. This covers percentages, paid vacation, paid statutory holidays, furlough leave, pension, health and welfare, unemployment insurance, workmen's compensation, other equipment, clothing, free over-time meals, etc. There is also some provision for shelters, inter-communication, toilet facilities and lockers. He pointed out that present practice in the locks indicated four shifts would be required to ensure three shifts on the wall.

He said that around 1960 the Seaway Authority had considered the possibility of providing linesmen service at the approach walls but the project met strong opposition from the inland traders, especially the Dominion Marine Association and the Lake Carriers Association of the United States, because of the cost involved. The ocean-going traders were canvassed very thoroughly through the Shipping Federation and, while it was practically unanimous that they would favour the use of linesmen, they changed their minds when they were informed they would have to pay for the service.

Commenting on the estimated cost indicated by Mr. Burnside, Capt. Matheson of the Shipping Federation said that it reflected a very poor administrative approach to the whole problem. In his opinion, it would be sufficient for the Seaway Authority to provide linesmen at the approach walls on the same basis as at the American Snell and Eisenhower locks. In that part of the Seaway which is administered by the Saint Lawrence Seaway Development Corporation, when a pilot feels that he will have difficulty approaching a wall, he advises the lockmaster who sends a man to take the lines.

For Capt. Matheson, it would be a waste of man power to have separate linesmen service at the approach walls because 75% or 80% of the time they would have nothing to do.

However, the Seaway Authority reported (Ex. 1292):

"Assistance is given at Canadian locks in tying up ships experiencing difficulty due to adverse wind but apparently not as frequently as at the American locks."

The Nautical Adviser to the Commission, the late Capt. J. S. Scott, made the following remarks about the use of landing booms:

"These involve, primarily:

- (1) Safety of the vessel when docking;
- (2) Safety of the person being landed.

The first can be much improved upon by the simple use of the heaving line. As regards (2), I venture to say that any industrial Safety Engineer would be horrified at seeing a live load being swung out on a creaking contraption from a moving platform over water on to an open dock.

...



Personally, I simply cannot, in this day and age, concur with the system of landing crew members and there is no alternative but to recommend the employment of dock-line handlers."

(vii) *Wheelsmen in ocean vessels*

The St. Lawrence River and Seaway Pilots and the Upper St. Lawrence River Pilots have recommended:

"That special wheelsmen be provided for all ocean vessels of more than 3,000 net tons for their passage in the Seaway; in other cases, these wheelsmen can be utilized with the consent of the captain." (Ex. 671E, paras. 645 and 674).

To justify this recommendation, the following reason is given:

"There have often been difficulties of communication between the pilot, the captain and the wheelman aboard certain vessels. A large number of wheelsmen have had a great deal of experience in navigation on the high seas, but very little experience on the narrow inland canals and locks of the St. Lawrence Seaway. Navigation on the interior of the Seaway frequently requires rapid manoeuvres. It is thus necessary to attempt to eliminate any possibility of misunderstanding between the manoeuvres which are indicated by the pilot and those which are understood by the wheelman.

This practice is moreover followed in several regions similar to the Seaway. A system of compulsory wheelsmen exists in the Kiel Canal, as well as in the canal which leads from IJmuiden to Amsterdam. A system of optional wheelsmen exists in the Manchester Canal and the Port of Antwerp. In practice, all ships employ these wheelsmen." (Ex. 671E, paras. 647-648).

Pilot Pérusse was questioned at length on this recommendation. He said that compulsory wheelsmen are needed (translation) "for the very good reason there are many helmsmen on vessels whom we ask to go entirely to the right or entirely to the left and they are going to turn only five or ten degrees and most of the time we are on the bridge at the other end of the vessel and we don't see what goes on at the wheelhouse."

He related many incidents in which he was personally involved. In 1962, aboard the *Malmanger*, he had an accident because the wheelman, when asked to put the wheel hard-a-port, put only 10 degrees. This accident occurred below Côte Ste-Catherine lock. The hull of the ship was dented around hatch No. 1, but the ship was still seaworthy and was able to continue. Again in 1962, aboard the *Ternefjell*, the wheelman gave the wrong wheel and the ship turned around. In 1963, aboard the *San Benito*, a Liberty ship, he ordered the wheelman to hold the wheel hard over to starboard, but the wheelman gave only five degrees.

There seem to be many causes for the errors committed by wheelsmen in ocean vessels. Their lack of experience in canal navigation is one. Sometimes the wheelman does not hear orders because he is talking with someone standing beside him. It appears that in large ocean vessels it is difficult for the helmsman to hear an order when the pilot is standing in the wing. Pilot Pérusse said that when he wants to give an order in these vessels he comes

up to the helmsman and then returns to the wing. There is no voice pipe to the helmsman's position.

Pilot Pérusse was also questioned how pilots give their orders to helmsmen. He replied that he follows the naval procedure by telling the wheelsman the number of degrees he should apply, e.g., "port 10 degrees" or "port 15 degrees" or "hard-a-port". Normally he repeats his orders to ensure that the wheelsman has heard him. He did not know whether other pilots used the same method.

The Seaway Authority stated that the situation would improve if wheelsmen were familiar with confined inland navigation. They added that "consideration might be given to insisting upon the employment of special wheelsmen for all ocean ships who do not have wheelsmen aboard who are able to converse competently in English and who have had experience as wheelsmen during Seaway voyages".

Pilot Bédard gave some information about the practice followed in similar circumstances abroad. In the Manchester Canal, the wheelsmen receive remuneration amounting to two-thirds a pilot's earnings. Their services are pooled and some wheelsmen are also apprentice pilots.

In the canal from IJmuiden to Amsterdam, which is about 10 miles long, there is wheelsman service and the number of wheelsmen increases with the size of the ship up to a maximum of four. They are employed in accordance with an agreement with the local Chamber of Navigation. No wheelsman boards vessels of less than 1,000 tons gross; one is employed in vessels between 1,000 and 2,000 tons gross; two are employed in vessels between 2,000 and 5,000 tons gross; a vessel of 5,000 tons gross requires three wheelsmen.

The Nautical Adviser to this Commission, the late Capt. Scott, made the following observations in regard to this problem (vide also his remarks on the same subject, p. 417):

"Despite keen appreciation of the heavy expense involved, there is, for my part, no alternative but to give the viewpoint that professional wheelsmen would introduce a large measure of safety into a dismal situation. If the chain of communication is weak and vague, then the only way to strengthen it is to provide an "anchor man" who knows what is expected in any case.

While the expense of professional wheelsmen would, at first glance, be borne by the ship, it must nevertheless be realized that the pilot himself is, in large measure, to blame for the lackadaisical manner of giving bridge orders.

Supplementary to the above is the increasing trend of carrying out ship-handling work in the bridge wings, with the pilot muttering his orders to the four winds and without the slightest idea of whether they have been heard or acted upon. It would be a great, but expensive, help to have helm indicators in each wing; also copper voice pipes direct to the wheel station."

#### COMMENTS

This recommendation goes to the very nature of lock and canal piloting where the major problems arise from navigating and passing in canals and

shiphandling within the confines of locks and their approaches, while in other types of pilotage shiphandling skill is secondary in importance to *expertise* in navigating local waters. Canal pilots must be highly qualified in handling all types of ships and must have full knowledge and experience of the hydraulic effects produced by ships meeting and passing in narrow channels and the effect of bank suction. Similar problems are met during lockages which in the Seaway (contrary to the procedure in the Panama Canal) must be effected by ships under their own power. Since space is so restricted, engine movements and rudder angle must be exact with practically no margin for error. Therefore, the pilot's orders must be carried out immediately and correctly, and any delay or failure may result in a casualty closing the Seaway for a long period. While manoeuvring in lock approaches and securing at the wait wall and during lockages, the pilots find it necessary to stand at the outer end of the wing of the bridge in order to appraise the situation and follow progress. It is from that position that they must give the necessary engine and wheel orders but, unless a rudder angle repeater is installed there, they can not be certain whether wheel orders have been applied properly.

It follows that the first and most essential requirements for the pilots are effective bridge procedure and discipline. There should be standard terms always used by all pilots; strict rules for transmitting orders; a precise method of verifying that orders are understood and carried out. The pilots must insist that each order is repeated and that, if there is no wing repeater, the ship's Master instructs an officer to stand by the wheelsman to ensure that the helm orders are applied immediately and correctly. These rules of bridge discipline and procedure should be included in pilotage regulations and, since safety is involved, any contravention by a pilot should result in a penal sanction, even extending to suspension or cancellation of his licence. It is to be expected that Masters will readily comply with the pilots' requests, but any failure to do so should be immediately reported by the pilot to the pilotage office by VHF radiotelephone and the complaint should be recorded there. However, the pilot should continue to provide his services to the best of his ability, unless the safety of the ship is directly involved.

If the pilots' recommendation that a wheelsman should accompany the pilot on board to assist in conning is implemented, the safety of navigation would be further enhanced but it is doubtful whether this is an essential requirement and whether it would retain the same importance if the necessary bridge discipline and procedure were established. This could only be determined by detailed investigations, *inter alia*, of all casualties or near casualties, information which the Commission does not possess.

(viii) *Communication between ships and Seaway bridge operators*

The pilots complained about their inability to communicate by radio-telephone between ships and Seaway bridge operators. They felt that the



present signal system is inadequate because ships do not receive sufficient advance notice when to proceed or reduce speed. When a bridge does not open, the practice is to contact the Beauharnois despatcher by radio.

The Cornwall pilots specifically recommended:

"That the signal system be coupled with a radiotelephone service to the Caughnawaga, St. Louis and Valleyfield bridges." (Ex. 671E, para. 663).

Pilot Pérusse commented that, if direct communication by radiotelephone were possible between ships and bridge operators, vessels would have 10 to 15 minutes advance notice, sufficient to make any necessary adjustment.

Mr. Burnside, however, was opposed to the installation of a radio-telephone system on the lift bridges because, whenever an emergency arises, the bridgemaster is too busy attempting to rectify the fault to use a set and it would only delay matters if he had to communicate with ships to explain.

In response to a written question (Ex. 1291) put to the St. Lawrence Seaway Authority, a similar but more detailed view was expressed thus (Ex. 1292):

"All movable bridges on the Seaway are provided with signal lights. When an approaching vessel reaches the Whistle Sign the Bridgemaster flashes the red light informing the vessel Master that he is aware of his approach and is preparing to raise the bridge. When the bridge is fully open the flashing red light is changed to steady green, signalling that the vessel, which is continuing to approach may pass.

The bridges are carefully inspected and maintained and are normally operated at least every hour and, therefore, incipient troubles can be detected and corrected. Failures occur very rarely.

If, for any reason, the bridge is known to be disabled, all vessels in the area are immediately warned by the Despatcher over the radio-telephone and no further vessels are sent forward.

If, in spite of every precaution, an electrical or mechanical failure occurs after the vessel reaches the Whistle Point, the Bridgemaster warns the vessel Master by displaying a red flare, indicating that the Master must take emergent measures to stop his ship. The Bridgemaster also telephones the Despatcher who immediately alerts all vessels in the area by radio-telephone. While the Despatcher is warning the vessels, the Bridgemaster takes immediate steps to discover, and if possible, correct the trouble so that the bridge can be raised as quickly as possible.

Since the approaching vessels are immediately warned by radio-telephone of any known disability at a bridge structure, it would serve no useful purpose for the Bridgemaster to constantly repeat to an approaching ship Master that the bridge will be raised for passage because this cannot be determined for certain until the structure is actually open.

If trouble develops after the ship approaches closely to the bridge, the Bridgemaster must quickly but calmly carry out repair procedures as rapidly as possible without uselessly attempting to engage in conversation with the vessel Master.

As soon as the trouble is corrected the solid red light is turned to flashing red advising the ship Master that the bridge is again operative. Until the trouble is corrected the Bridgemaster has no way of actually knowing how long the bridge will be disabled and it would be dangerous to entice captains to go forward lest the trouble be more severe than thought at first.

The emergent signals are given only under extreme conditions and are not used without good reason and must be fully respected by shipping.

Radio-telephones on movable bridges would serve no useful purpose and they do not exist on the Welland Canal bridges."

(ix) *Language problems*

While Seaway despatchers have had some difficulties communicating with the crews of foreign ships, they are not great since all vessels not registered in Canada must have aboard a radiotelephone operator who is proficient in the English language, as required by subsecs. 57(4) and (5) of the Ship Station Radio Regulations, Part II, of June 1966 (Ex. 492).

The St. Lawrence Seaway Authority considers that the presence of a pilot on board a foreign vessel is a great advantage because translation difficulties are avoided.

Mr. Burnside added that it would facilitate Seaway operations if all communications there were carried out in English, necessitating French-speaking pilots to communicate in English with Seaway despatchers, only some of whom are bilingual. Most Masters and officers aboard foreign vessels trading in the Seaway do not understand French, but all understand English. The native tongue of most of the ships' officers in the Canadian fleet is English. Foreign operators appeared to outfit their vessels with Masters who are familiar with English so that they may trade in American as well as Canadian waters. Moreover, according to Mr. Burnside, it is important for Masters to understand what Seaway despatchers actually tell pilots so that they may be fully aware of conditions which may affect their vessels, particularly when there is a conflict of interests. In addition, Masters should be able to understand the instructions given by despatchers to other vessels nearby and thus be prepared to take whatever action appears necessary.

The pilots were opposed to the change advocated by Mr. Burnside. They testified that officers in foreign vessels could speak in either English or French in most cases and did not believe that Masters of foreign ships needed to know what the despatchers were saying, since these Masters were not usually on the bridge. They expressed the view that, wherever Seaway despatchers could speak both French and English, the use of both languages should be allowed as an additional safety factor in the control of Seaway traffic.

(j) *Maintenance of the Seaway*

The St. Lawrence Seaway Authority is responsible for the maintenance of locks and canals under its jurisdiction. As noted earlier (pp. 904-5), most of these navigational facilities are located in the Pilotage District of Cornwall between Montreal and Cornwall. Maintenance of the non-canal reaches in the Canadian section of the River above Montreal, namely, the navigation channels in Lake St. Louis and Lake St. Francis up to boundary line south of Cornwall Island and in the upper reaches of the River from

Morrisburg (Canada Island) to a point located about 5 miles past Brockville, is the responsibility of the St. Lawrence Ship Canal Division of the Department of Transport. From this point on to Lake Ontario, the navigation channel is on the United States side of the boundary waters, maintenance of which is the responsibility of the United States Coast Guard, who are also responsible for the channel south of Cornwall Island in United States waters (Ex. 489). The method used for maintenance sweeping and dredging, and the periods of the navigation season during which those operations are carried out, are explained in the sections of the Report dealing with the St. Lawrence River ship channel (pp. 155 and ff. and pp. 648 and ff.).

Vessels transiting the Seaway must have anchor buoys attached to their anchors. Sometimes an anchor is dislodged and in the comparatively shallow channels might foul another vessel navigating directly over it.

To facilitate quick recovery of lost anchors, a small wooden buoy is tied to each anchor and made fast to the ship's rail, outside the normal chain area, so that when the anchor is dropped the light attachment to the rail is torn off, and the buoy goes into the water with the anchor marking its location. If there were no anchor buoys, lost anchors would be very difficult to find, especially when they are dropped in an emergency. Recovery will be made either by the Seaway Authority or the St. Lawrence Ship Channel Division, depending on the place where the mishap occurred. There is a working arrangement, however, whereby in an emergency the closest equipment to the site will proceed to do whatever is necessary for recovery. The cost of recovery is charged to the owner.

*(k) Seaway Notices and Notices to Shipping*

There are two types of written communications to ships trading in the Seaway. The first, called Seaway Notices to distinguish them from the Department of Transport Notices to Mariners, is intended to cover changes of a more permanent nature and may contain explanations considered necessary for changing procedures that would not be fully detailed in the Seaway Handbook (vide Ex. 476 for an example of such a Notice). Seaway Notices are sent to every person making an application for pre-clearance.

The other type of communications is the Notices to Shipping which are issued by the District Marine Agencies to cover items of an emergency nature. Normally, when an emergency arises, the information is given by radiotelephone from some specific vessel that has either observed or experienced something unusual which must be immediately communicated to the nearest Seaway station. Upon receipt of that information, the Seaway despatcher immediately contacts by R/T the ships in his Traffic Control Sector so that they may be aware of the situation. This is followed by a report to the District Marine Agent at Prescott or Sorel, as the case may be.



If it is felt desirable to disseminate the information more widely, arrangements are made with the St. Lawrence River Marine Traffic Control for the necessary broadcasting.

#### (4) AIDS TO NAVIGATION

Practically all the aids to navigation in the Canadian waters of the Seaway between Montreal and Lake Erie, including the aids in the enclosed channels such as the Beauharnois Canal near Montreal, are the responsibility of the Department of Transport. The Seaway Authority may have marker buoys installed temporarily when there is some obstruction in a channel, but the regular aids to navigation are installed and maintained by the Department of Transport, the work being divided between two District Marine Agencies of the Department, the Sorel Agency for the River between Montreal and Beauharnois, and the Prescott Agency for the Upper St. Lawrence area.

There are hundreds of these aids, most of which are light-buoys electrically operated and fitted with radar reflectors. These light-buoys are removed after the end of each navigation season and are re-installed before the beginning of the next navigation season. Whenever possible, the centre of the channel is indicated by land-based range lights or steering lights.

#### (5) MARITIME AND PILOTAGE TRAFFIC

Maritime traffic in the Cornwall District is substantially different from that on the St. Lawrence River below Montreal because it is predominantly composed of Canadian and American lakers which are exempt from the payment of pilotage dues in the District.

Since the lock dimensions impose a maximum limit on ships of 730 feet overall, 75 feet 6 inches extreme breadth and 25 feet 9 inches draught, the larger, deeper ocean vessels now being built in increasing numbers are barred from the Seaway and the District by their size. Moreover, even if they can be accommodated to the physical limitations, it is often at the expense of draught and they will have to top up downriver. Economics have forced owners to acquire vessels which can make maximum use of the Seaway and in the process small cargo vessels have virtually disappeared, as the following table illustrates. It shows each year since the opening of the Seaway the transit statistics compiled by the Seaway Authority of the commercial traffic which transits either upbound or downbound the first part of the Seaway in which the Cornwall District is situated, i.e., from Montreal to Lake Ontario, segregated so as to be most meaningful in relation to pilotage, i.e., domestic and overseas transits. *Overseas transits* mean "transits to or from Foreign Ports beyond the Coast of Canada and the United States." To arrive at the *domestic* figures, inland and coastal transits were added. *Coastal transits* are "to and from the Maritimes and U.S. Atlantic

Ports." The average tonnage per ship in each instance was calculated in order to show the trend to larger vessels and the levelling effect of the limitation on maximum size and draught. The pilotage statistics available do not permit similar segregation.

SEAWAY, MONTREAL/LAKE ONTARIO SECTION—NUMBER OF TRANSITS  
AND AVERAGE TONNAGE PER SHIP; AND CORNWALL PILOTS—  
NUMBER OF TRIPS AND AVERAGE TONNAGE PILOTED

Year	Seaway (Upbound-Downbound Combined)						Pilotage	
	Domestic		Foreign		Trips	Average Gross Tonnage		Average Net Tonnage
	Transits	Average Gross Tonnage	Transits	Average Gross Tonnage				
1960.....	4,672	2,889.7	2,197	5,293.9	2,861	n/av.	n/av.	
1961.....	4,741	3,681.6	2,151	6,325.0	2,601	5,304	3,154	
1962.....	4,049	4,388.0	2,302	6,753.5	2,748	n/av.	n/av.	
1963.....	4,232	5,452.7	2,053	6,823.0	2,326	5,728	3,372	
1964.....	4,287	5,863.6	2,492	7,200.3	2,730	6,163	3,634	
1965.....	4,579	5,796.5	2,751	7,516.4	3,022	n/av.	n/av.	
1966.....	4,602	6,715.7	2,739	7,977.7	3,108	6,839	3,999	
1967.....	4,375	6,510.6	2,546	7,950.0	2,978	6,745	3,896	
1968.....	4,198	7,159.0	2,378	8,552.1	2,768	6,899	40,45	
1969.....	3,975	5,028.4	2,417	8,879.3	2,812	7,405	4,324	

SOURCES: *Seaway*: Ex. 475—traffic report of the St. Lawrence Seaway.

*Pilotage*: Ex. 1540(b)—computer statements of the Department of Transport, except 1960, 1962 and 1965 which were taken from Ex. 534(b)—annual reports of the Pilotage Authority, the information being otherwise not available.

The limitation on size and draught and the trend to ships with the maximum permissible dimensions the locks and the canals can accommodate were no doubt the governing factors which led to the adoption in 1961 of the flat rate method for computing pilotage dues, rather than the former rates which varied according to draught and tonnage.

Only a few trips are partial transits. There is no port or landing place *en route* of importance to foreign-going ships and, if one has to stop, it is generally because she is delayed for some reason at an anchorage either in the Seaway or Lake St. Louis or Lake St. Francis. This is no doubt why despatching is effected on the basis of full transits and the trip rates contain a provision to compensate pilots for such idle time (vide p. 875).

The port of Cornwall is situated at the western end of the District and, therefore, ships calling there are involved in a full transit, except for the few from the Kingston District. The approach to the port is through

a channel dredged to Seaway depth and width branching from the main channel off St. Regis Island. The depth alongside the 400-foot DOT wharf is 22 feet.

The Port of Valleyfield is situated on the north side of the Beauharnois section of the St. Lawrence Seaway about 30 miles above Montreal. There is a small amount of traffic, mainly for local industries. The depth alongside the two wharves is 25 feet 9 inches. The tariff provides special rates for trips ending or beginning there (vide p. 875). Traffic increased in 1967 and this no doubt prompted the addition of the special rate that year.

The following table based on DBS arrival statistics of vessels of 250 NRT and over shows the relative importance of these two ports both in the number of arrivals (one arrival for a ship taking a pilot means two pilotage trips) and in the size of vessels.

#### COMPARATIVE STATISTICS FOR ARRIVALS OF VESSELS 250 NRT AND OVER

Year	Cornwall		Valleyfield	
	Arrivals	Average NRT	Arrivals	Average NRT
1959.....	91	1,246	n/av.	n/av.
1960.....	89	1,215	n/av.	n/av.
1961.....	71	1,271	n/av.	n/av.
1962.....	68	1,292	n/av.	n/av.
1963.....	64	1,374	12	1,019
1964.....	39	1,173	5	460
1965.....	59	1,188	n/av.	n/av.
1966.....	48	1,384	13	3,089
1967.....	44	1,387	53	3,871

SOURCES: Exs. 15 and 1483 (Dominion Bureau of Statistics).

The Cornwall District, although part of the Seaway, does not come under the application of Part VIA. C.S.A. Hence, the only permissible form of compulsory pilotage under Part VI is applied, i.e., the compulsory payment of dues. The compulsory system is applied realistically enough in that most of the truly regular traders—Canadian and American lakers engaged in domestic trade—enjoy complete exemption. However, the other lakers of foreign registry, including British Commonwealth lakers, no matter how regularly and frequently they trade through the system, are subject to the compulsory payment of dues.

This requirement is realistic for ocean-going vessels, even though they follow a regular schedule, since their actual experience in the system is limited due to the infrequency of their transits. Statistics formerly compiled by the Canadian Maritime Commission and contained in its annual reports



(Ex. 475(b)) show that the average number of round trips by foreign registered vessels engaged in direct trade between the Great Lakes and overseas ports between 1959 and 1966 never exceeded 2.3 per vessel.

DIRECT TRADE BETWEEN GREAT LAKES AND  
OVERSEAS PORTS IN FOREIGN REGISTERED VESSELS

Year	Number of Vessels	Number of Round Trips	Average Number of Round Trips per Vessel Each Year
1959.....	506	1,146	2.3
1960.....	540	1,245	2.3
1961.....	494	1,112	2.3
1962.....	537	1,151	2.1
1963.....	456	1,032	2.3
1964.....	542	1,239	2.3
1965.....	632	1,405	2.2
1966.....	623	1,354	2.1

It is clearly apparent from the table on p. 924 that a number of exempt vessels use pilotage service for reasons of safety and convenience as well. On the other hand, very few non-exempt vessels dispense with pilots. It can be logically surmised that a greater number would do so if it were not for the compulsory system and the limited exemptions for domestic traders, e.g., lakers of foreign registry would probably dispense with pilots because they do not need their services. They have nothing to gain by not employing a pilot for whom they must pay unless they would be delayed because none was available. The following table shows for the years 1961-1968 the number of trips without pilots by ships which paid dues, the amount involved and the incidence of this revenue on the gross pilotage revenue of the District.

Year	Number of Trips	Amount of Dues	Incidence on Gross Pilotage Revenues
1961.....	4	\$ 580.00	0.14%
1962.....	nil	nil	nil
1963.....	1	160.00	0.04%
1964.....	9	1,071.50	0.23%
1965.....	6	801.64	0.13%
1966.....	10	929.58	0.15%
1967.....	10	1,148.20	0.18%
1968.....	12	816.98	0.14%

In the Cornwall District there is no maritime traffic during the winter months as such; navigation ceases when the Seaway (lower sector) is forced to close by the formation of ice in the locks and canals, the date of which varies from year to year, e.g., in 1962, Dec. 7 and in 1965, Dec. 17, and remains closed until the Seaway reopens when the ice clears, e.g., 1966, April 1 and in 1962, April 23. According to the District By-law, the winter season is from December 1 to April 8 when two pilots are to be assigned on each trip. However, there is no pilotage during the winter and *winter pilotage*, therefore, means pilotage between December 1 and the closing of the Seaway and between the opening of the Seaway and April 8.

#### COMMENTS

It is obvious that the scheme of exemptions for this District was not dictated by considerations of safety of navigation but merely as a method of increasing pilotage revenue. It is to be expected that the withdrawal of exemptions would have been more extensive (as in the Montreal and Quebec Districts) if it had not been for the resultant discrimination against Canadian vessels on account of the absolute exemption (subsec. 345(ee) C.S.A.) granted to American lakers. As was to be expected, the relative exemption which British Commonwealth lakers (other than Canadian) had enjoyed under subsec. 346(e) C.S.A. was withdrawn in 1965.

This situation would be rectified if the Commission's General Recommendations 22 and 23 were implemented (Part I, pp. 532 to 545).

#### (6) RULES OF THE ROAD FOR THE GREAT LAKES

Section 645 C.S.A. authorizes the Governor in Council to make rules for enhancing the safety of navigation both at sea and on the inland waters of Canada. As is to be expected, special rules have to be devised to meet the special conditions encountered in confined waters.

It is under this provision of the Act that the basic rules called "Collision Regulations" were adopted (P.C. 1965-1552) and gave legal effect within the territorial waters of Canada, and also to vessels of Canadian registry in other waters, to the rules adopted through international agreement. These rules are known as the "International Rules of the Road". They apply in all navigable waters within Canada except on the Great Lakes and St. Lawrence waterway west of Montreal (Ex. 1472).

However, even east of Montreal the International Rules of the Road have also been modified to meet local situations in confined waters by the St. Lawrence River Navigation Safety Regulations (P.C. 1967-700) which, *inter alia*, provide for such situations as the presence of vessels engaged in such work as dredging, or ships meeting where navigation is particularly

difficult, and precedence is to be given by the ship stemming the current or the tidal stream, or a ship overtaking is to exchange certain signals (Ex. 1461(j)). In addition, a Harbour Authority may have to change the International Rules to meet local conditions, as was done in Montreal (vide p. 634).

For the special navigational conditions west of Montreal, special rules of the road have also been devised which are known as "Rules of the Road for the Great Lakes". The latest version was approved December 8, 1954 (P.C. 1927) as amended March 2, 1967 (P.C. 414). These rules vary sharply with the International Rules and even the St. Lawrence Regulations on a number of essential points which affect the safety of navigation (Ex. 1112).

These rules were drawn up to apply to upper lake vessels long before the Seaway opened but any conflict with the International Rules was unimportant then because only small vessels—lake or ocean-going—could transit the existing locks and canals. The Seaway, however, permitted much larger vessels to leave and enter all the Great Lakes and made it a matter of urgency that the navigators of these vessels should be thoroughly familiar with the navigational procedure in the Lakes and the St. Lawrence River and Gulf. This is undoubtedly one of the reasons why Part VIA C.S.A. imposes on all ocean-going vessels compulsory pilotage by a registered pilot in the designated waters of the Great Lakes Basin west of St. Regis, the presence on board of a registered pilot or an officer with prescribed qualifications in the undesignated waters of the same area and the compulsory payment of pilotage dues in the Cornwall District.

Many of these rules that conflict with the International Rules were not dictated by local peculiarities but merely reflect local practices which developed over the years. In the interest of safety, efforts have been made for a number of years to amend these regulations to conform as much as possible with international practice, but without success to date.

The main differences concern:

(a) *Fog Signals for Vessels Underway and at Anchor*

Under International Rules, a vessel sounds a prolonged blast at intervals of not more than two minutes but, under Great Lakes Rules, three distinct blasts at intervals of not more than one minute. Under the International Rules, vessels may exchange passing signals only when in sight of each other; under the Great Lakes Rules, signals for meeting and passing may be exchanged whenever the vessels are within sound of each other. As a result, a fog signal which is readily distinguishable from a passing signal became necessary.



(b) *Lights*

There are numerous differences in the two sets of rules governing lights, the most important relating to lights of vessels at anchor.

(c) *Right of Way in Rivers and Channels and Signals for Meeting and Passing*

In all narrow channels where there is a current, the descending vessel has the right of way and is required to indicate by appropriate signals the side selected for passing. These signals do not correspond to those provided in the St. Lawrence River Navigation Safety Regulations.

(d) *Danger Signal*

This is another requirement for which there is no comparable provision in the International Rules, i.e., the right to disagree with a proposed passing vessel when the vessel to which such signal has been made deems it unsafe to assent. The danger signal consists of not less than five short blasts; both vessels then should reduce speed to bare steerageway and stop or reverse if necessary.

A number of shipping casualties have occurred because navigators were not familiar with these signals and procedure and acted under the International Rules of the Road rather than the Great Lakes Rules (Exs. 1112, 1103 and 1078).

## 2. NATURE OF PILOTAGE SERVICE

Pilotage in the Cornwall District consists of canal and river navigation in restricted waters governed by special regulations and practices, and shiphandling through locks.

Between Montreal and Cornwall, the four locks and their associated canals (the South Shore and Beauharnois Canals) cover about half the distance, the remainder consisting essentially of narrow channels dredged to required Seaway specifications.

Safe, expeditious navigation of this section of the Seaway requires not only local knowledge and experience of the physical features of the channel, currents and cross-currents, but also familiarity with the special navigational regulations which apply west of Montreal, i.e., the St. Lawrence Seaway Regulations and the Rules of the Road for the Great Lakes, as well as a high degree of skill in navigating through congested narrow canals and channels and in shiphandling and manoeuvring at the locks.

There are strong currents in certain places, such as at the Lower Beauharnois lock where a southeast current, varying according to the operations of a nearby control dam, pushes vessels towards the approach wall. In addition, ocean vessels, particularly, face difficult conditions in

these confined waters due to their different construction and sometimes inadequate equipment for canalling (engine controls, rudders, winches). They are much more susceptible to wind effects and generally are more difficult to manoeuvre in these waters than lake vessels.

Moving vessels towards approach walls, proceeding through locks, meeting vessels in canals, navigating in narrow channels and sometimes in close proximity to private shoreline properties are all difficult operations which are fraught with unusual hazards in adverse wind and visibility. Experienced judgment and direction are essential throughout.

The four locks and the existence of four bridges crossing the South Shore Canal (Jacques Cartier, Victoria, Honoré Mercier and C.P.R.), some of which have to be opened for ships' passage, require intimate knowledge of Seaway regulations and procedure. As noted earlier, the Rules of the Road and navigational practices differ basically from those applicable on the rest of the St. Lawrence River from Montreal harbour to the sea. Unfamiliarity with these differences has been the cause of many shipping casualties involving ocean-going vessels west of Montreal harbour. For further comments on the nature of the *expertise* required of canal and lock pilots, vide comments pp. 918-19.

Any mishap or faulty manoeuvring in this section of the Seaway would not only damage the ship or ships involved but would also interrupt navigation for extended periods of time and completely paralyze shipping in this vital artery of commerce. This situation is similar to that prevailing in the other sections of the Seaway where, by Canadian and United States law (Part VIA C.S.A. and 46 U.S.C. 216), compulsory pilotage is imposed on all vessels except those which trade regularly and frequently through these waters, i.e., Canadian and American lakers which, on the average, make about 30 Seaway transits or 15 round trips a season (Ex. 1214).

That local knowledge and experience are essential is recognized by the owners of lake vessels and they ensure that their ships are navigated by a pilot or by an officer with similar *expertise*. Prior to the creation of the first Pilotage District, the shipping companies operating on the Great Lakes and the St. Lawrence canals had their own company pilots. When the St. Lawrence-Kingston-Ottawa District was created in 1934, these companies were allowed to retain these pilots as a transitional measure until they reached retirement age. They were issued a pilot's licence but remained in the employ of the company and were engaged to pilot company vessels between Kingston and Montreal, despite the fact that all these lakers enjoyed complete exemption in those waters and could legally have been navigated by their regular Masters and officers. There are no longer any such licensed contract pilots (vide p. 876).

Knowing the definite requirements for local *expertise*, the companies operating lake vessels stipulate that the Masters and mates they sign on must be prepared to navigate in these waters without a pilot. This is reflected in the Collective Agreement between certain upper lake companies and the Canadian Merchant Service Guild which provides a bonus for officers "engaged in pilotage duties" in these waters (Ex. 1142(a)), thus enabling ships to dispense with pilots and benefit from the exemption.

It has been suggested that hiring a crew through a time agreement under secs. 172 or 173 C.S.A. (an owner can hire a crew to serve in one or more ships belonging to him) provides a way of avoiding the necessity of taking a pilot, even though the officers do not possess the necessary pilotage *expertise*, the stratagem formerly adopted in Quebec when so-called Sailing Masters were hired (vide p. 205). It would appear that a mariner with the necessary *expertise* could thus be signed on, purportedly to serve as an extra Master or mate on board a number of company lakera for a specific period but actually to provide disguised pilotage services.

#### COMMENTS

The most serious problem, however, is not that these vessels are navigated by qualified persons whose only fault is that they are not licensed pilots but that they may be navigated by persons who do not possess the necessary local knowledge and experience and, hence, pose a threat to the safety of navigation which is harmful to public interest in this section of Canadian waters. At present, there is nothing to prevent this happening since the exemption is granted indiscriminately to a category of vessels.

This safety problem would be solved, and the practice of hiring company pilots through the device of time agreements would become pointless if, as recommended by the Commission (vide Gen. Rec. 23, Part I, pp. 539 and ff), exemptions from compulsory pilotage were granted on the basis of safety, not to a category of ships but to the Masters and officers of those ships, the criterion being *expertise* in navigating the waters concerned and exemptions being valid only for the ship named on the personal exemption certificate.

### 3. ORGANIZATION

The pilotage organization in the Cornwall District is on the same lines as in the Quebec and Montreal Districts. The Minister of Transport is the Authority but, as noted earlier (p. 660), administration is from Montreal by the Montreal District Supervisor of Pilots who also performs the functions of Supervisor for the Cornwall District.

The situation with regard to the Regional Superintendent of Pilots and to the Cornwall Pilots' Committee is the same as in the Quebec District ex-



cept that the Cornwall General By-law provides for a Pilots' Committee of five members instead of six, to correspond to the Board of Directors of the Pilots' Corporation. For further details concerning the Regional Superintendent of Pilots and the Pilots' Committee, vide pp. 221 and 214 respectively.

#### (1) RECOMMENDATION RECEIVED

In a supplemental brief submitted to the Commission dated March 15, 1966 (Ex. 1469) the St. Lawrence Seaway Authority recommended that it be entrusted with the responsibility for "the employment and control of pilots" in the Seaway area including the section between Montreal and Cornwall.

Referring to its Consultants' Study (Oct. 1964) on Pilotage in the Welland Canal (Ex. 1473), the Authority stated that the main conclusions contained in it, namely, that the present division of responsibility between pilotage administration and canal operation was not in the best interest of safety and efficiency and that canal pilotage should become an integral part of canal operation with pilots responsible to the Authority, were conclusions equally applicable to the lower portion of the Seaway. Noting the advantages to be derived from the selection and training of pilots and their assignment in harmony with canal operations, the Authority concluded that it should have the responsibility of controlling the pilotage service in all areas under its jurisdiction.

The Federation of the St. Lawrence River Pilots registered its opposition to this recommendation, expressing the view in a supplemental brief to the Commission dated September 1966 (Ex. 1494) that the Authority had not established that it would be in a better position to bring about the suggested improvements if it were made responsible for pilotage and that, moreover, the consultants' study to which the Authority referred dealt with the occurrence, cause and effect of pilot shortages only in the Welland Canal and during a specific period when congestion was particularly acute. It pointed out also that the Authority's recommendation could not be implemented under the present bilateral arrangements between Canada and the United States concerning pilotage in the Great Lakes Basin, which provide for joint participation by Canadian and United States registered pilots in the operation of the service.

In its brief to the Commission (Ex. 1134), the Dominion Marine Association also expressed its opposition to the transfer to the Seaway Authority of responsibility in matters of pilotage because it feels that pilotage would then become only part of a larger operation resulting in a probable deterioration of the service.

The views of the Commission on the extent to which existing Crown agencies could be entrusted with the responsibility of pilotage control are expressed in Part I, General Recommendation 18.

#### 4. PILOTS

##### (1) NUMBER OF PILOTS

When the St. Lawrence-Kingston-Ottawa District was abrogated November 17, 1960, and its territory divided into the two new Districts of Cornwall and Kingston, there were 56 pilots, 42 of whom held a permanent licence. They were given an opportunity to express their individual preference as to which of the new Districts they wished to belong in the future and 32 chose the Cornwall District.

The By-law leaves the determination of the required number of pilots to the administrative decision of the Pilotage Authority after consultation with the Pilots' Committee concerned (re the legality of this provision, vide Part I, pp. 255 and ff.). There is no criterion established, with the result that the question is studied afresh each time a vacancy occurs or the pilots request an increase in their number. For a more complete study of the subject and the Commission's comments and recommendations, vide pp. 225-231.

The pilots' strength remained at 32 up to 1963; in 1964, it rose to 36 and to 37 in 1966. At times, the apparent strength appeared to be greater, e.g., at the end of the 1965 season, 38 pilots held a licence, although the approved strength was only 36, because two temporary licences were issued to two apprentices as reliefs for two pilots who were on prolonged leave of absence on account of illness.

The following table shows the number of pilots calculated from different statistical points of view.

CORNWALL PILOTS—NUMBER OF PILOTS\*

Year	Establishment as of December 31	Total Pilots Holding Licence during Any Part of Year	Year Pilots	D.O.T. Effective Pilots**	Paid from Pool†
1960.....	32	35	33.5	n/av.	35
1961.....	32	33	32.7	30.6	32
1962.....	32	34	31.8	30.4	33
1963.....	32	32	32.0	30.7	32
1964.....	36	36	33.0	29.86	36
1965.....	39	40	38.7	33.60	38
1966.....	38	42	39.2	34.92	39
1967.....	38	38	38.0	36.13	37
1968.....	37	39	37.0	36	37
1969.....	37	37	37.0	n/av.	37

SOURCES: \*Ex. 1540 (j); \*\* Ex. 534 (b); † Ex. 823.

## (2) RECRUITING AND TRAINING

There was no apprenticeship system in the former St. Lawrence-Kingston-Ottawa District. Pilots were recruited from experienced seamen in the inland trade holding at least a Certificate of Competency as Master, Tugboat, in the minor waters of Canada. Selection was made by a Board of Examiners after a period of training which lasted a few months. The successful applicant was first issued a probationary licence which was followed by a permanent one if his services proved satisfactory.

This system was logical in view of the existence of a large pool of qualified mariners with extensive experience in the navigation of these waters.

Pilot A. Pérusse and Pilot G. Pinal, who received their pilot licence for the St. Lawrence-Kingston-Ottawa District in 1956 after extensive experience in local waters serving in lake vessels as ship's officers and company pilots, felt that they were competent to perform pilotage but were not immediately prepared to take charge of the navigation of ocean-going vessels because these vessels are much less manœuvrable at close quarters. The difficulty was compounded by the much larger ocean-going vessels which began to operate in the District following the opening of the Seaway.

The system was maintained with minor modifications when the Cornwall District was created. The governing provisions of sec. 11 of the By-law, which was approved in 1960 and has not been amended since in this respect, merely state that pilots must be recruited from experienced seamen of the inland trade with actual extensive experience in navigating District waters. The candidate must hold a Certificate of Competency not lower than Master, Steamship (unlimited), in the inland waters of Canada and must have served at least as a deck officer in vessels trading regularly through the District for two to five years immediately preceding the date of the examination for a pilot's licence. However, two other prerequisites not listed in the By-law are required of candidates as is shown by the January 31, 1967, newspaper advertisement for candidates (Ex. 1540(m)): the candidate must have "successfully passed the Department of Transport Radar Observers Course", and is required "to demonstrate a sufficient knowledge of French and English to perform the duties" of pilot in the Cornwall District. Both are definitely warranted as safety measures and should be required of all candidates, but under the governing legislation this can not be done legally except through appropriate provisions in the regulations. To date, this step has not been taken, once again showing lack of understanding of the rôle of, and necessity for, legislation in the scheme of organization under Part VI C.S.A. The appraisal of the candidate's qualifications is the responsibility of a Board of Examiners whose composition since the 1965 amendment has been two officers of the Department of Transport, one of whom is Chairman and three members of the Pilots' Committee. The first licence is one-year



probationary, without limitation, however, as to type or size of vessel, which after satisfactory service is normally followed by a permanent one unless the Pilotage Authority in its administrative discretion prefers to issue a temporary licence for a stated period.

In the first years after the creation of the District vacancies were filled by transferring pilots who had had experience in the District when it formed part of the larger District. In 1961, there was one such transfer from the Kingston pilots and a second in 1962. In 1964, when the pilots' strength was increased from 32 to 36, it became apparent that this transitional method had reached its limit: two pilots were transferred from the Kingston District but the other two had to be recruited from the group piloting in the open waters of Lake Ontario.

The pilots realized from the beginning that the reserve of experienced pilots would soon be exhausted and that some type of training would be necessary before a pilot's licence could be issued, despite the fact that candidates could be recruited from qualified mariners who met the By-law requirements. These candidates had to become familiar in detail with all the physical features of the District waters, but mainly they had to become expert in handling new types of ships whose characteristics were quite different from those of the inland vessels they had previously navigated. Because of the different contours, ocean-going vessels require extra precautions when manoeuvring in the locks and their approaches.

In 1961, the Cornwall pilots began pressing for the establishment of an apprenticeship system and included it in their demands during the April 1962 strike of the St. Lawrence River pilots. A compromise solution was arrived at in 1965 when the problem became pressing, since it was no longer possible to recruit directly from Kingston pilots with experience in Cornwall waters. The compromise solution was that candidates accepted under the existing By-law provisions would be required to follow a training programme and would not be assigned alone to a vessel until after a full season of training. This realistic solution, which has been in effect ever since, has not, however, been reflected in the By-law.

The apprenticeship system requested by the pilots in 1961 was along the lines of the existing system in the Quebec and Montreal Districts, i.e., a long term training programme in which pilots are recruited from young candidates whose only prerequisites are a basic education and an interest in pilotage.

The Shipping Federation of Canada registered its opposition advocating the other extreme position that no training at all was indicated, on the ground that pilotage in Cornwall waters differed substantially from pilotage in the Districts of Quebec and Montreal in that it mainly involved canal navigation which requires expert shiphandling. Because a substantial pool of mariners

with local experience already existed, the Shipping Federation saw no need for an apprenticeship period of any kind.

Up to April 1962, the position of the Department of Transport was identical to that of the Shipping Federation. When the pilots had first made the suggestion, they were informed by the Department that there were a large number of qualified Masters and officers with detailed knowledge of these waters and there was no compelling reason to introduce an apprenticeship scheme.

The pilots raised the question again the following year and made it an item for negotiations during the 1962 winter meetings which on April 8, 1962, deteriorated into the strike by the pilots of the St. Lawrence River Districts of Quebec, Montreal and Cornwall.

In the agreement which put an end to this strike, the Minister of Transport promised that his Department would develop a plan of apprenticeship for new pilots and that this plan would be in force in 1963 (Ex. 761) (vide p. 713). However, this promise was not fulfilled. It appeared that the Minister of Transport had made the commitment without consulting his departmental advisers.

Because of the Minister's commitment, a meeting was held November 15, 1962, and the Pilotage Authority submitted a proposal under which apprenticeship was to be restricted to applicants of not less than 25 years of age, holding a Certificate of Competency not lower than Master, Inland Waters Steamship, and with two years' actual experience navigating in the District as Master or deck officer in a regular trader. The accepted candidates would have been required to undergo a two-year apprenticeship of practical training and make 100 trips each year through the District accompanying licensed pilots.

No agreement was reached at the meeting. On January 30, 1963, the Minister of Transport informed the pilots that, since a Royal Commission had been appointed to study all aspects of pilotage and would likely consider the problem of apprenticeship, he preferred to defer his decision because he did not wish to adopt any solution that would be contrary to the recommendations of the Commission. However, the pilots kept insisting on the implementation of the 1962 agreement (Exs. 807 and 1481).

Prior to the beginning of the 1965 season, a compromise solution, as noted earlier, was finally reached between the Shipping Federation and the pilots and concurred in by the Pilotage Authority. It consisted of a short term training system:

- (a) The By-law prerequisites would remain unchanged except that the selected candidates would become apprentices.
- (b) Apprenticeship would consist of a full season of practical training.

- (c) Trainees would be remunerated and a 3 per cent surcharge would be levied to finance this expenditure.
- (d) The pilots would handle the required financial administration and pay the remuneration of the trainees; they agreed to keep a separate accounting of the trainees' cost for the Department's inspection, if required (Ex. 1484(a)).

Although the amended apprenticeship scheme was implemented immediately, none of its features was incorporated in the By-law which remained unchanged as if the system had not been basically modified. It is reported that the 3 per cent surcharge was included in the 12 per cent surcharge that was introduced by the By-law amendment of June 23, 1965, but no mention was made of the fact that one-quarter of the money so raised was to serve exclusively to pay for the remuneration of the apprentices and subsec. 9(1), which provided that each pilot is entitled to receive all the dues earned by his services, was not even amended.

As a result of these arrangements, competitions were held and a number of candidates meeting the By-law requirement as to fitness, competency and experience were placed on the eligible list for apprentice appointment as required. In March 1965, five were successful in passing the examination. Three were appointed apprentice pilots immediately and the two others on August 27, 1965, and March 1, 1966, respectively. Another competition was held in March 1966: of nine applicants, four were successful. As of the end of the 1968 season, they all had become apprentices and only one had not yet been licensed as a pilot.

The apprentices were paid by the pilots a remuneration which in 1965 was set at \$4,928.50 annually, with an aggregate expenditure of \$14,413.00 for the four apprentices taken that year (Exs. 823 and 1540(n)).

#### COMMENTS

The problem of training pilots for pilotage in the Quebec and Montreal Districts bears no comparison with Cornwall. In the first two, the main navigational difficulties are caused by the physical features of the ship channel, stream and tidal currents and cross-currents, all compounded in adverse weather. Hence, extensive knowledge of local features and navigational conditions and wide experience of local navigation in these waters are essential for the safe, expeditious flow of maritime traffic. The absence of a sizeable group of qualified mariners possessing the required degree of local knowledge and experience made it necessary to introduce a comprehensive training system for selected young candidates.

In the Cornwall District, the difficulties caused by the special physical features of the ship channel are small by comparison; what is most important is a high degree of skill and experience in navigating narrow canals and



manoeuvring in the locks. Fortunately, a large pool of qualified mariners possessing such experience exists, i.e., the Masters and mates of the laker fleet. However, they are not immediately prepared to navigate ships other than those of the type to which they are accustomed, and must become familiar with handling ocean-going vessels. Therefore, a period of practical training is indicated but merely to familiarize themselves with new types of ships, which should be a relatively brief period for qualified mariners. Whether they are called "trainees" or "learners", they are, in fact, apprentices.

As far as its recruiting and training programme is concerned, the Cornwall District has a marked advantage over the Quebec and Montreal Districts because there is a greater guarantee that candidates with higher qualifications will be available. In Quebec and Montreal, the absence of a sizeable pool of qualified mariners with actual experience in the District made it necessary to adopt the long term training programme where the first selection is made from young persons who have no other marine record and qualifications than their expressed desire to become pilots. Once they are chosen, the Pilotage Authority is committed to accept them as apprentices and eventually as pilots if they meet the prescribed minimum requirements.

It is inconceivable, however, that the Pilotage Authority never saw fit to give legislative effect to the sensible solution which had been arrived at after years of contention.

The Cornwall By-law does not provide for grading pilots' licences, except through granting a probationary licence to newly appointed pilots, and there appears to be no need for further grading. The one-year probationary period, which may be extended when indicated, should suffice to allow an accurate appraisal of a candidate's practical knowledge, navigational *expertise* and skill in manoeuvring ocean-going vessels. The regulations are deficient in that the probationary licence is unlimited as to competency. They should follow the procedure adopted in the grade system for Grade C pilots, since the probationary period is part of the practical training, and should provide for limiting competency to small vessels at first and then increasing it at the expiration of fixed terms, subject to satisfactory service. On the other hand, in view of the limitation on the size of vessels that can proceed through the locks and the trend to larger vessels, most of the present traffic consists of vessels of the maximum permissible size and there is no need for a small group of pilots selected to handle the larger ships. The occasional assignments of exceptional difficulty should be dealt with as cases of exception and the By-law should assert the right and duty of the despatching authority to depart from the tour de rôle in such cases and to designate for such assignments pilots with the greatest *expertise*.

### (3) PILOTS' ORGANIZATION

Apart from their Pilots' Committee provided for in the District By-law, there is only one professional organization grouping the Cornwall pilots as such, i.e., the Corporation of St. Lawrence and Seaway Pilots (Ex. 806). As is the practice in other Districts, the Board of Directors of the Corporation becomes the Pilots' Committee, thereby achieving the desirable unity of professional organization (Part I, p. 549). Although there is no compulsion to join the Corporation and members may be expelled, the membership has always included all District licensed pilots.

This Corporation, created by letters patent granted April 19, 1956, under Part II of the Federal Companies Act, was the first professional pilots' corporation of that type and served as a model for the others (Part I, p. 87).

It was originally called the "Corporation of the St. Lawrence-Kingston-Ottawa Pilots", since at that time it grouped the pilots of the former St. Lawrence-Kingston-Ottawa District. The name was changed by supplementary letters patent on May 23, 1961 (Ex. 806) following the abrogation of the former District and the division of its territory between the two Pilotage Districts of Cornwall and Kingston, the Canadian pilots of the Kingston District leaving the Corporation to form one of their own. However, the amendments to the charter did not go beyond changing the name with the result that the purposes and extent of potential membership no longer correspond to reality because they refer to the pilots of a Pilotage District that no longer exists. The purposes stated in the letters patent are reproduced *in extenso* in Part I, p. 87.

The Corporation's charter, by-laws and structure are in substance the same as those of other similar Corporations (vide pp. 275 and ff.), and like them it is purported to have full control over the pilots' earnings remunerating them through shares of the common fund after payment of Corporation and group expenses. A pilot, once a member, is supposed not to be able to withdraw from the Corporation of his own volition as long as he remains a licensed pilot, unless expelled by decision of the Board of Directors.

In 1958, pilot George Downey tried to withdraw but the Board of Directors refused him permission. At the same time, the Corporation instituted court action against him claiming the pilotage dues he had earned by his services and which had been paid directly to him by the Pilotage Authority. The case was settled out of court, pilot Downey voluntarily reimbursed the Corporation and the Corporation abandoned its suit. Pilot Downey, furthermore, abided by the Corporation's decision with regard to his membership and thereafter acted as a regular member of the Corporation.

To become a member, a pilot must sign an application form and also a power of attorney (Ex. 815) which authorizes the Corporation to receive,

collect and claim all sums of money owing to the member in connection with his services as a pilot.

One main difference with the other Corporations is By-law No. 7, filed with the Secretary of State February 4, 1961, which, following the example set the previous year by the Corporation of the Montreal Harbour Pilots, established an initiation fee. Effective April 1, 1959, all new members are required to pay an entrance fee of \$1,500 in three equal yearly instalments into a special fund which, according to the By-law, can not be spent except as authorized by a resolution at a general meeting of the members. In fact, since 1962, revenue from this source has been fully expended each year toward administrative expenses.

(a) *Finance*

The financial operations and financing procedure of this Corporation are the same as those of the Montreal and Quebec Pilots' Corporations.

This Corporation was the first of its type. The pilots' aim was merely to adopt the pooling partnership and the professional organization of their *confrères* of the Quebec and Montreal Districts, but in a corporation rather than an association. At this stage the two legal entities, partnership and corporation under Part II of the Federal Companies Act, were confused, setting a pattern which was followed in the other Districts. The comments on p. 283, and in Part I, pp. 90 and ff., apply.

The method of financing the Corporation's administrative costs, the pooling system and the accounting procedure (including the format of the annual reports) are the same as for the Montreal Harbour Pilots' Corporation described on pp. 695 and ff. Sec. 37 of Corporation By-law No. 1 empowers the Corporation to raise dues from its members but, except for entrance fees provided for by By-law No. 7 of 1961, no use is made of this method of financing. Instead, as is the practice in other similar Corporations, the pilots' revenues are deemed to be Corporation revenues (By-law No. 2, secs. 1 and 6), out of which the Corporation's administrative expenses are paid, thereby avoiding the necessity to impose Corporation dues.

According to the Corporation By-laws, entrance fees are supposed to form a separate fund which can not be expended except as authorized by a special resolution of the Corporation's general meeting. Such a special fund was kept up to the end of the 1961/62 financial period when the Corporation ceased to represent the Kingston pilots, and was fully expended to meet the Corporation's operating expenses in equal shares for the Cornwall and Kingston pilots. Expenditures from that fund amounted to \$12,500 in 1962, \$9,680 of which was used to set up and organize the Corporation of the Kingston pilots. Since then, money collected from that source has been regu-



larly paid into the pool. For accounting purposes, it is shown as having been applied towards the payment of part of the Corporation's administrative expenses which are thereby indirectly shared among all the pilots.

The pooling procedure is the same as adopted by the Montreal harbour pilots. Pooling is based on dues earned. That portion of shares which remains outstanding at the end of the pooling period is remitted to the pilots as the unpaid dues earned during that period are collected.

In 1964, the financial year was made to coincide with the calendar year; until then it had ended February 28. Hence, the financial statement for the year 1964 covers only 10 months, March-December. This did not affect the revenues since there is no pilotage in January and February. The only difference is that the expenditures are slightly lower than they would normally have been since the limited administrative expenses for those two months were covered by the previous financial period.

The financial statement reflects the main differences in the operation of the pool. There are two pooling periods per financial year, each with its own pooling rules—the regular pool which extends from the beginning of the navigation season to Nov. 30, and the winter pool which extends from Dec. 1 to the close of navigation. Most of the administrative costs and group expenses are met from the regular pool. The only deductions for operating expenses from the winter pooling are the apprentice pilots' remuneration and the Secretary-Treasurer's percentage on earnings.

The small amount of administration connected with pooling and Corporation operations is not extensive enough to justify a full time staff. Substantial savings are effected by sharing the services of a part time Secretary-Treasurer with the Montreal Harbour Pilots' Corporation and the Kingston Pilots' Corporation. His personal insurance broker's office serves also as the office of these Corporations.

The annual financial report (Ex. 823) consists of three statements:

- (i) a balance sheet at the end of the financial year;
- (ii) a statement of receipts and disbursements for the financial year together with a supporting table giving details of the payments made to each pilot on his share from the current pooling and outstanding balances from previous distributions;
- (iii) a complete financial statement explaining the pooling operations with supporting documents.

The description of, and the information given with regard to, these three statements on pp. 697 and ff. apply here *mutatis mutandis*. The financial statement of 1968 (Ex. 823) is used on p. 942 to illustrate the process.

*Study of Cornwall Pilotage District*

The balance sheet as of December 31, 1968, showed the following assets and liabilities:

BALANCE SHEET

<b>ASSETS:</b>		
Money on hand and in the bank.....		\$ 21,284.52
Receivable accounts:		
From insurances.....	\$ 924.49	
From D.O.T.:		
1966 season.....	935.06	
1967 season.....	714.73	
1968 season.....	117,339.64	119,913.92
Total assets.....		<u>141,198.44</u>
<b>LIABILITIES:</b>		
Accounts payable for administrative costs (Secretary-Treasurer).....		5,498.98
Accounts payable to the pilots:		
Non-pooled money 1967 season.....	249.88	
Non-pooled money 1968 season.....	16,845.57	
Pooled money 1966 (reg. pool.).....	1,385.34	
Pooled money 1967 (reg. pool.).....	788.75	
Pooled money 1968 (reg. pool.).....	76,864.96	
Pooled money 1968 (winter pool.).....	39,564.96	135,699.46
Total liabilities.....		<u>141,198.44</u>

Since the second document is a statement of receipts and disbursements for the financial year, it reflects cash transactions only. This statement for the year 1968 gives the following information:

STATEMENT OF RECEIPTS AND DISBURSEMENTS

CASH ON HAND AND IN BANK, JANUARY 1, 1968.....		\$ 81,627.67
<b>RECEIPTS:</b>		
Receipts 1964 season.....	163.00	
Receipts 1966 season.....	896.64	
Receipts 1967 season.....	69,896.30	
Receipts 1968 season.....	505,517.36	
Free turns paid by Federation.....	198.40	
Other receipts.....	70.25	576,741.95
Total receipts.....		<u>658,369.62</u>

## DISBURSEMENTS:

## Administrative expenses:

Payment of outstanding accounts from the previous year including apprentice pilots' remuneration.....	5,825.26
Current costs including apprentice pilots' remuneration	26,327.88

## Group expenses:

Federation fees.....	8,281.25	
Group insurance.....	24,365.25	32,646.50

## Payments to the pilots:

Non-pooled money 1964.....	24.70	
Non-pooled money 1966.....	146.90	
Non-pooled money 1967.....	9,245.09	
Non-pooled money 1968.....	33,010.42	42,427.11
Regular pooling 1964.....	320.08	
Winter pooling 1964.....	260.00	
Regular pooling 1966.....	309.65	
Regular pooling 1967.....	105,569.68	
Winter pooling 1967.....	30,938.94	
Regular pooling 1968.....	392,460.00	529,858.35

Total disbursements.....		637,085.10
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Cash on hand and in the bank December 31, 1968.....		21,284.52
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The supporting tables give details of payments to each pilot or on his behalf during the year on what was owed him for the current pooling period and was outstanding from previous pooling periods.

The third document, the accounting statement of pooling operations, shows the pilotage revenues earned during the year (not collected), the amount paid to the Corporation by the Federation for free turns, the amounts paid by newly licensed pilots as initiation fees and the net amounts of the regular and winter poolings. It shows also the computation of the net value of the sharing turn in the regular pooling, and of the pilot day in winter pooling.

In 1968, the regular pooling net income amounted to \$76,864.96 entitling each pilot with constant availability to a share of \$13,796.80. The winter pooling net income amounted to \$39,564.96 entitling each pilot with constant availability to an additional share of \$1,084.96, making an aggregate revenue (or aggregate share) of \$14,881.76. The calculation of the net pooling income for both the regular pooling and the winter pooling was as follows:



*Study of Cornwall Pilotage District*

**EARNINGS:**

1968 earnings.....	\$ 622,857.00
Free turns paid by Federation.....	198.40
Initiation fees.....	2,500.00
	<u>625,555.40</u>

*Main pooling:*

*Non-pooled items*

Detentions and cancellations.....	\$ 31,951.49
Transportation expenses.....	14,820.36
Expenses for administration (including apprentice pilots' remuneration).....	34,370.82
	<u>81,142.67</u>

*Net pooling*..... 503,676.73

*Winter pooling:*

*Non-pooled items*

Administration including (apprentice pilots' remuneration).....	1,171.04
	<u>39,564.96</u>

*Net pooling*..... 625,555.40

The net value of the turn (\$198.28) and of the pilot day (\$72.38) was arrived at by dividing the net pooling amount by the number of sharing turns (2540.14) for regular pooling and by the number of pilot days (547) for winter pooling.

A supporting table shows how much of the net pooling income was paid to, or on behalf of, the pilots and how much was outstanding on Dec. 31. A breakdown per pilot is given in addition to aggregate amounts. For 1968, this was shown as follows:

REGULAR POOLING NET:.....	\$ 503,676.73
<i>Payments made</i>	
On behalf of the pilots	
Insurance.....	23,570.52
Federation fees.....	8,281.25
Initiation fees.....	2,500.00
	<u>34,351.77</u>
To pilots.....	392,460.00
Balance of net pooling outstanding as payable accounts to the pilots.....	76,864.96
	<u>503,676.73</u>
WINTER POOLING NET:.....	39,564.96
<i>Payments made</i>	
On behalf of pilots.....	nil
To pilots.....	nil
Balance of net pooling outstanding as payable accounts to the pilots.....	39,564.96
	<u>39,564.96</u>

For comparative purposes and also to establish the real cost of administration, the following table computed on the basis of liabilities (not expenditures) shows for the years 1961 to 1969 the pool liabilities for group expenses and administrative expenses, and the total administrative costs, which figure is arrived at by adding to administrative liabilities the value of free turns granted the Directors.

#### CORNWALL PILOTS—POOL LIABILITIES AND ADMINISTRATIVE COSTS

Year	Pool Liabilities		Administrative Costs		
	Total Prior to Distribution	Other than Administrative Liabilities	Liabilities	Value of Free Turns to Directors	Total
1961.....	\$23,807.86	\$17,392.42	\$ 6,415.44	\$ n/av.	\$ n/av.
1962.....	25,515.30	17,084.92	8,430.38	n/av.	n/av.
1963.....	38,734.78	26,972.54	11,762.24	n/av.	n/av.
1964.....	37,633.06	24,054.32	13,578.74	n/av.	n/av.
1965.....	55,528.98	40,018.36	15,510.62	3,202.26	18,712.88
1966.....	60,758.00	41,325.12	19,432.88	2,025.73	21,458.61
1967.....	64,970.65	42,504.21	22,466.44	3,861.69	26,328.13
1968.....	67,393.63	44,266.77	23,126.86	3,965.60	27,092.46
1969.....	57,942.99	39,517.30	18,425.69	2,087.20	20,512.89

SOURCE: Ex. 823.

The administrative liabilities as well as the other deductions from the pool prior to sharing have increased considerably over the years. In order to ascertain the cause of such an increase, the Corporation's administrative and group liabilities for the years 1962 and 1968 broken down by items are compared in the following table. The year 1962 was chosen because 1961 was a year of transition when the Kingston pilots left the Corporation to form their own and, hence, was not sufficiently representative.

	1962	1968
ADMINISTRATIVE LIABILITIES		
Secretary-Treasurer's remuneration..	\$ 3,200.00	8,998.98
Legal fees.....	1,450.00	8,757.50
Meeting expenses.....	489.01	118.95
Convention expenses.....	529.03	548.36
Stationery.....	348.70	220.75
Telephone and telegraph.....	—	23.95
Postage.....	—	89.31
Bank charges.....	—	72.29
Christmas gifts and flowers.....	559.74	793.52

*Study of Cornwall Pilotage District*

	1962	1968
Audit.....	387.50	710.00
Miscellaneous.....	51.40	5.00
Directors' indemnity for detention losses.....	—	450.00
Directors' expenses.....	1,415.00	2,338.25
	8,430.38	23,126.82
POOL LIABILITIES OTHER THAN ADMINISTRATIVE		
Insurance premiums.....	10,684.92	23,570.52
Federation and Guild fees.....	6,400.00	8,281.25
Apprentice pilots' remuneration.....	nil	12,415.00
	17,084.92	44,266.77
Total disbursements from the two pools prior to distribution to pilots.....	\$25,515.30	\$67,393.63

The 159 per cent increase in "pool liabilities other than administrative" in 1968 over 1962 is mainly accounted for by an item added in 1965, i.e., the apprentices' remuneration which the pilots had undertaken to pay from their own earnings and in consideration of which a 3 per cent general increase in rates had been embodied in the tariff (vide p. 937). This item of expenditure, which was \$14,413 in 1965, has been decreasing slightly since and was only \$10,359.50 in 1969. Federation and Guild fees have remained relatively constant throughout the years with a peak in 1963, probably on account of the extra cost resulting from the considerable participation of the Guild and the Federation in the hearings of this Commission. In 1969, this item was \$6,562.50, almost back to the 1962 level despite the fact that there was a slight increase in the number of pilots. On the other hand, the group insurance premiums have more than doubled because of increased coverage and additional benefits. The compulsory group insurances provide for medical and hospitalization coverage; life indemnity of \$10,000 with double indemnity in case of accidental death; indemnity for loss of earnings; \$300 per month up to 65 years of age in case of illness and for life in case of accident, the benefits to continue whether the pilot has lost his licence due to illness, injury or physical incapacitation, provided the cause of the cancellation of the licence is neither misconduct nor abuse of alcohol.

In the "administrative liabilities", which had increased by 174% in 1968 over 1962, the most significant increases occurred in the Secretary-Treasurer's remuneration and legal fees. The Secretary-Treasurer is remunerated by a percentage of dues collected. The percentage, which was originally fixed at 1 per cent, was raised to 1½ per cent in 1966 and 1½ per cent in 1968 with



a maximum of \$9,000. In addition to his services, the Secretary-Treasurer provides the use of his personal office and office equipment rent free. Legal fees now reflect the considerable negotiations that the pilots have to carry out every year with the shipping interests and the Pilotage Authority in order to promote their interests in the present labour-oriented pilotage organization where they have the ambiguous status of quasi-employees. This item is not likely to decrease unless the field of negotiation is limited to salary or target income and working conditions. It will be further decreased if the Commission's General Recommendation 19 is implemented.

During their full season of practical training the apprentices are paid the remuneration which the pilots as a group have undertaken to pay. This liability was taken into consideration when the pilotage rates were fixed (vide pp. 936-7).

The Corporation's bookkeeping is audited and the annual financial statements are certified by a firm of chartered accountants. Since the Corporations of the Montreal harbour pilots and the Cornwall pilots both employ this firm and have the same Secretary-Treasurer, the bookkeeping practice and reporting procedure are similar.

The comments on pp. 289 and 290 apply *mutatis mutandis*. For the study of the pooling procedure and the Commission's comments, vide pp. 977 and ff.

#### (4) LEAVE OF ABSENCE

The applicable legislation treats the pilot for absence and leave purposes as if he were a private entrepreneur with no regular periodical holidays or annual vacations. Leave is automatic when the reason for absence is physical incapacitation due to illness or injury, the only requirements being that the District Supervisor be informed as soon as the pilot becomes unavailable and a medical certificate be furnished by the pilot's own physician if the absence lasts more than six consecutive days. The Supervisor may require the medical certificate to be verified by a medical officer appointed by the Authority. The pilot may absent himself at any time for any reason, the only requirement being the Supervisor's authorization. Although the By-law does not establish a criterion for the exercise of this power, it is apparent from the context that the only considerations are the existing and expected requirements for service. If a sufficient number of rested pilots are available to handle the expected demand, the Supervisor must grant permission. The sections dealing with the assignment of pilots do not provide an equalization procedure but merely state that the pilots are to be assigned in regular turns as their names appear on the assignment list. Since the pilots' remuneration consists of the dues they have earned by their services, all absences mean the loss of the revenue they would have earned if they had not been absent.

The actual situation is, however, basically different in that through private arrangements between the pilots and the Pilotage Authority their remuneration is in effect a share of the common earnings, the tour de rôle is governed by the equalization of turns principle (which, however, is realistically limited to availability) and the pilots enjoy a compulsory summer holiday.

The equalization principle is not applied to turns missed during the period of absence, whatever its cause, with three exceptions (By-law No. 2, subsec. 13(b) as amended by By-law No. 14 in 1965):

- If the absence was rendered necessary by the death of a member of the pilot's family, he is granted four days' absence; if the deceased was of the pilot's immediate family, this absence is counted as time available and he is granted two turns on the despatching list, thus freeing him from the necessity of catching up lost turns which carry full sharing privileges; if the deceased was an in-law, the absence is also considered time available but no turns are granted and the pilot must make up his lost turns to avoid losing their value.
- Between April 1 and Nov. 15, a pilot is entitled to three days' absence which he may take together or separately as he wishes, provided the Supervisor's permission is obtained previously; the days count as duty time; no turns are granted and equalization applies.
- Free turns are granted for attending to Corporation business (see pp. 978-80).

In all other cases, equalization does not apply and absence means a pecuniary loss, unless an indemnity is provided in the various insurance coverages to which the pilots subscribe. The pilot is credited for the first three days of such absence for despatching list purposes only (so as to prevent equalization from applying) one half turn per day, and for the remaining days of absence the average number of turns completed by pilots with constant availability.

This rule, which is necessary to prevent the abuses of the unlimited application of the equalization of turns principle, was adopted for the first time in 1957 by the pilots of the former St. Lawrence-Kingston-Ottawa District. It was only in 1961 that a similar rule was adopted by the Corporation of the Mid-St. Lawrence pilots (vide p. 722) and it has not, as yet, been adopted by the Quebec District pilots (vide pp. 308 and ff. re the unsatisfactory situation that has developed on account of the absence of this realistic rule).

(a) *Absence due to Illness or Injury*

Leave of absence due to illness or injury is automatically granted but the Supervisor verifies whether the cause is legitimate. It is the practice to require a medical statement whenever absence is expected to last more than a day. If the statement does not indicate the probable duration, the Supervisor ascertains this information from the physician.

Turns lost due to illness or injury can not be recovered and the pilots' own pooling arrangements do not provide for indemnity turns. However, the Corporation has arranged that its pilots receive adequate protection against loss of earnings through compulsory group insurance protection which provides a fixed benefit per day of absence from pilotage duty, in addition to medical, hospitalization and life indemnity coverage (By-law No. 9 of 1963). Premiums are a group expense and not an administrative expense. Since hospital and medical coverage varies depending whether a pilot is married and has children, the premiums vary. They are deducted at source from each pilot's share in the pool.

(b) *Periodic Holidays*

The Cornwall pilots have not adopted the system of recurring holidays during the navigation season. Since there is no navigation in the winter months when the Seaway is closed, this period serves as an extended annual holiday and, in addition, each pilot takes a 10-day (originally one week) holiday during the summer months according to a pre-arranged schedule drawn up by the Corporation's Board of Directors (Ex. 721). The schedule is so arranged that no more than three pilots are on leave at the same time during that period. For despatching purposes, four turns are granted to prevent the equalization of work; these turns, however, are deducted at the end of the year for pooling purposes.

(c) *Absence to Attend Board Meetings and Transact Other Corporation Business*

By exception, the Cornwall pilots not only do not suffer any pecuniary loss for turns missed to attend Board meetings or transact other Corporation business but they are given a monetary return in addition to the allocation of free turns. Section 12 of Part I of the Corporation By-laws provides that, in addition to the reimbursement of their travelling expenses and other expenses incurred to attend Board meetings, they are to be paid a fixed monetary indemnity which the Board determines by mere resolution. At the time of the Commission's hearings, the monetary return amounted to \$20 attendance fee for the Chairman and Vice-chairman and \$15 attendance fee for the other Directors. The 1968 annual statement indicates that, for that year, the Directors were paid instead \$90 each for a total of \$450 as an indemnity for their loss of non-pooled revenues, i.e., detention dues (vide



Table, pp. 945-6). In 1969, however, it appears that the Directors received no pecuniary indemnity except the usual reimbursement of their expenses which amounted to \$1,872.80 as compared to \$2,338.25 in 1968. They are also granted one half free turn (between 1961 and 1964, one free turn) for each day or fraction of a day of absence for such a meeting (By-law No. 2, sec. 13 as amended in 1965), while the actual number of turns missed on those occasions is never more than a fraction of a turn per day. Although free turns carry pooling rights, they do not net the pilot concerned a greater share of the pool on account of the equalization system but he will enjoy a longer period of rest between assignments.

The table on page 980 shows the number of free turns credited since 1960.

### (5) DISCIPLINE

The pilots in the Cornwall District may incur disciplinary action for infractions of either the pilotage regulations or the Seaway Regulations.

The legal situation respecting pilotage offences is the same as in other Districts, i.e., the Pilotage Authority purports to have judicial power and exercises it following the same procedure (vide Part I, C. 9).

The District Supervisor testified that he had no difficulties with discipline and had never received any report about any District pilot being under the influence of liquor when reporting for duty. Fines are occasionally awarded.

The Seaway Authority has no disciplinary jurisdiction over the pilots—nor over Masters and ships' officers—for violations of the Seaway Regulations. To prosecute a pilot for such a violation the procedure would be the same as when the prosecution is directed against the Master or an officer of a ship, i.e., by laying a charge before a regular penal tribunal. The Seaway Authority's policy, however, has always been to take proceedings against the ship or the Master (even when a pilot might have been to blame) acting on the premise that there is a *prima facie* case against the Master and the onus rests on him to show that the pilot was to blame. This defence has never been raised. In the opinion of the legal counsel of the Seaway Authority, sec. 16(2) of the Seaway Regulations is wide enough to authorize the direct prosecution of a pilot offender. This section provides that a person is guilty of a violation "who handles any vessel contrary to the provision of these Regulations or any directions of the Authority or of an officer given under these Regulations", who is a party to any such violation (Ex. 1335).

### (6) SHIPPING CASUALTIES

#### (a) *Reports and Investigations of Shipping Casualties*

Shipping casualties occurring in the Cornwall District as *de facto* extended to the Snell lock and involving a pilot may concern not only the

Pilotage Authority, the Minister of Transport, the American Coast Guard and the Canadian or American Seaway Authorities, depending where the casualty occurred. The investigatory and remedial powers of each of these authorities are limited because their restricted territorial jurisdiction has not been extended (as it should have been) by an international agreement between the United States and Canada to cover the common waterway. The result is the present unsatisfactory situation where none of these authorities can carry out a complete and proper investigation and, in any event, would be powerless to take the proper remedial action.

When an incident occurs in the area under the authority of the Seaway, the Seaway Authority carries out its own investigation. Such an investigation is effected immediately, first, by the seaway employee in charge of the bridge or lock involved and, second, if the accident is serious, by the Canal Superintendent of the area. This is merely an administrative investigation to determine the cause and what immediate measures are required. The Canal Superintendent takes steps to have the other Seaway traffic in the vicinity warned immediately of the situation, and then advises his head office to permit them, *inter alia*, to arrange for immediate repairs to the Seaway facilities if needed. In the case of an accident involving Seaway property, if the accident is of a minor nature, the ship will be allowed to proceed; otherwise, the ship is delayed and a full investigation held. The Seaway Authority's purpose is not to find whether or not the pilot may have been to blame, but to gather the necessary proof to enable recovery from the ship of the damage she has caused.

The same casualty may or may not be investigated by the Pilotage Authority and/or by a Court convened by the Minister of Transport under Part VIII of the Canada Shipping Act. At the time of the Commission's hearings, the representative of the Seaway Authority, Mr. R. J. Burnside, stated that to his knowledge the Seaway Authority had never been requested to participate in any such investigation or Court of Inquiry. The practice has been for the Pilotage Authority merely to carry out an informal administrative investigation, during which the Seaway Authority may be asked to make available the information it has obtained in the course of its administrative investigation.

As in the case of port authorities in other Districts, the Seaway Authority felt that there would be an advantage if better liaison could be developed without interfering with the respective fields of administrative jurisdiction.

Shipping casualties in U.S.A. waters involving a Cornwall pilot reveal a disturbing situation. The area involved lies between St. Regis and Snell lock where only the United States Coast Guard has the power to undertake a full investigation. This may be followed by a sanction against the ship involved, but the Coast Guard has no power to take any disciplinary or

remedial measure against a Canadian pilot for an act committed in U.S. waters. The procedure has been for the U.S.C.G. to conduct an investigation and invite a representative of the Pilotage Authority if the case involves a Canadian pilot. Following the investigation, the U.S. authorities formulate an opinion as to the cause of the accident and communicate their findings to the Canadian authorities for any action they may wish to take.

At the time of the Commission's hearings, the Department of Transport had a record of only two such casualties involving Cornwall pilots in U.S. waters and in neither case was the pilot to blame. The first occurred on May 8, 1962, and involved S.S. *Polyktor* while upbound. It appeared from the investigation that the pilot had recommended the ship be ballasted but the Master thought this could not be done in time. As the ship approached Snell lock a gust of wind caused the ship to sheer, with the result that she sustained a dent in her bow on contact with the lock. The second instance occurred October 29, 1962, and involved the U.S. ship *Captain Nicholas Sitilas*, also upbound. On her approach to Snell lock, she was caught in a gust of wind and, despite the pilot's efforts, went ashore on a mud bank. No inquiry was held by the Canadian authorities into these casualties other than the normal questioning of the pilots.

On August 28, 1967, M.V. *Solny* grounded in fog near St. Regis in U.S. waters without suffering any apparent damage. This incident was investigated by the U.S. Coast Guard. Apparently, no blame could be attached to the pilot since nothing was heard from the U.S. authorities (Ex. 1539(q)).

#### *(b) Remarks on Shipping Casualties*

The types and causes of the various shipping casualties in which Cornwall pilots are involved clearly reveal the different nature of their pilotage service and where the difficulties mainly lie. Any problems created by the physical features of the channel or by currents are relatively easy to overcome and, therefore, there are very few shipping casualties while under way in the channel. Those that do occur are usually caused by loss of control due to bank suction, touching bottom or collision or grounding resulting from lack of visibility in fog. The greatest hazard occurs while handling ocean-going vessels approaching the locks at slow speed when they have almost no steerage-way and must manoeuvre under their own power without tugs. The risk is increased in adverse winds, especially if a ship is in ballast.

Appendix A is a table of casualties, accidents and incidents involving Cornwall pilots which are reported as shipping casualties as the term is defined by sec. 551 C.S.A. for the period 1959-1968. It also contains a detailed analysis of the cases, their nature and the causes for the years 1964 and 1967. Reference is made to Part II, pp. 88-90 for the definition of the method of classification of so-called shipping casualties used in this Report.



Since the creation of the Cornwall District Nov. 17, 1960, there has been no Formal Investigation or Inquiry under sec. 579 C.S.A. into a shipping casualty involving a Cornwall pilot.

There was only one Preliminary Inquiry. It concerned the collision between the motor vessels *François L.D.* and *Mantadoc* at approximately 0606, November 10, 1968, in the Beauharnois Canal about 6½ cables east of Valleyfield Bridge. Both vessels sustained extensive damage but there was neither loss of life nor injuries. *François L.D.*, a 617-ft. ocean-going bulk carrier with bridge aft, was downbound with a pilot on board and *Mantadoc*, a 608-ft. lake vessel with bridge forward, was upbound without a pilot. The two vessels had known long in advance that the other was in the vicinity and where and when they would meet because they had been informed by the Seaway Traffic Controller, had located each other on radar and had established contact by radiotelephone. A few minutes before they were to meet, visibility deteriorated rapidly but each vessel was seen clearly by the other on radar. Both vessels began fog signals, reduced speed and maintained radio-telephone contact. When they made visual contact they were on a collision course which could not be corrected by last-minute manoeuvres. The collision completely closed the St. Lawrence Seaway to shipping for fifteen hours, and for another 18½ hours traffic was restricted to vessels drawing no more than 18 feet.

At the time of the collision, visibility was reduced to between 100 and 200 feet and it appeared that *Mantadoc* was on the wrong side of the channel, slightly south of the centre line. The Preliminary Inquiry Report (Ex. 1539(q)) states that the principal cause of the accident was the unexpected presence of a bank of fog across the Canal. This, however, was not the cause of the accident but an accompanying circumstance: the cause was obviously failure on the part of one of the vessels, presumably *Mantadoc*, to keep to the proper side of the channel. The fact that fog prevailed is completely unacceptable as an excuse. The sudden appearance of a small patch is always a possibility with which experienced mariners should be able to contend, especially in a straight canal well marked by buoys which show up on radar and with neither cross-currents nor contrary winds to affect steering. If this is not a statement of fact, vessels should be prohibited from meeting in canals during fog unless they can be guided by instruments. It would appear, however, that it is normal practice to pass in fog. In this case, both the pilot in *François L.D.* and the two Masters were quite confident of their ability to meet without danger despite the visibility, which probably explains why they did not reduce speed further. The evidence indicates that the real cause of the accident was apparently human error on the part of the Master of the *Mantadoc*, which seems to have been the conclusion that was reached since the matter was not pursued further as affecting the safety of navigation (Ex. 1539(q)).

## 5. PILOTAGE OPERATIONS

### (1) BOARDING AREAS, PILOT STATIONS AND PILOTAGE OFFICES

Almost all maritime traffic is transit traffic: the Cornwall pilots embark at one end of the District and disembark at the other. Hence, a boarding area has been established at each end near the District limits where it is most convenient and economical for both pilots and vessels. The obvious location was the nearest lock where ships can be boarded either at the wait wall or in the lock. This procedure eliminated the need to establish and maintain pilot vessel service at the western end of the District which, in addition to the high cost involved, would have created a serious danger for ships because they would have been obliged to reduce speed for the pilot vessel at the expense of manoeuvrability in a narrow channel.

The two boarding areas are the St. Lambert lock site (vide pp. 903-4) and the Snell lock site which is well outside the western limit (pp. 899-900). As stated earlier, this situation should be corrected by extending the Cornwall District to include Snell lock. Furthermore, each boarding area should be made joint territory with its respective adjacent District (Part I, p. 480, Gen. Rec. No. 9; also Part IV, Rec. No. 1).

In addition, pilots may board and disembark at any port or landing place within the District, mainly Valleyfield, Côte Ste-Catherine wharf and Cornwall.

In both boarding areas the pilots are provided with a pilot station which, however, merely serves as a waiting room until ships arrive. The stations are provided with a direct telephone line to the pilotage office to enable the pilots to report and obtain the latest information on traffic, weather and other matters affecting safety. The Cornwall pilots share these facilities with the pilots of the adjacent Districts.

The pilots' accommodation at Snell lock consists of the former office of the Secretary of the United States Seaway Authority near the lock which became vacant when the U.S. offices of the Seaway administration were transferred to Massena. The whole building was transformed into a waiting room for the pilots; chairs and settees were provided so that the pilots could rest while waiting for their ships.

The pilots' accommodation at St. Lambert lock consists of a building erected for the purpose by the Department of Transport in 1964 on the St. Lambert side. A long and unnecessary dispute ensued between the pilots and the Department of Transport before this facility was provided. It was the subject of a specific recommendation by the pilots in their brief to this Commission because proper facilities had not yet been provided.

The necessity for such facilities had been overlooked in the reorganization of the pilotage service to meet the new requirements resulting from the

opening of the Seaway. St. Lambert lock was considered merely another boarding place within the harbour of Montreal to which the pilots could be despatched from their residence but, the situation was basically different because the distance to be travelled was greater and the chances of delay were increased. Furthermore, while the occasional case of a pilot reporting late anywhere else in the harbour meant only delaying a ship, at St. Lambert lock it meant stopping the lock operations. Hence, it was necessary for the required pilots to be on hand when the ships to which they were assigned arrived and no chances could be taken that they would arrive late. Under these circumstances, it was obvious that they must have adequate shelter while waiting. In addition, St. Lambert lock was a unique boarding place since the Montreal and Cornwall pilots changed over there.

Shortly after the opening of the Seaway in 1959, the pilots realized the situation and requested appropriate facilities in the immediate vicinity of the lock. This was one of seven demands contained in a memorandum addressed to the Pilotage Authority and jointly presented by the Corporation of the St. Lawrence-Kingston-Ottawa Pilots and the Corporation of the Montreal Harbour Pilots (vide p. 981). They threatened to resort to strike action, i.e., to hold a general meeting to consider the situation, if a solution to this problem had not been reached and their other demands met by June 19. By June 17, the pilots were given the assurance that a trailer would be provided as a temporary measure and this was done shortly afterwards.

No further action was taken until the pilots complained in 1963 that this temporary accommodation was not suitable and, furthermore, was poorly located since it was on the Montreal side of the canal while they were boarding on the St. Lambert side which they could not reach when the lock was open. The pilots urged that proper facilities be erected on Seaway property near St. Lambert lock. The Seaway Authority favoured this recommendation, its only condition being that the construction be in conformity with the buildings already there.

The consultant firm, G.T.R. Campbell and Co., which had been commissioned in 1963 to study the problem of changing pilots at St. Lambert lock, made a recommendation along the same lines, i.e., that a regular "pilot station house" be erected there providing living quarters for a pool of Cornwall pilots who would man the station on a round-the-clock basis to ensure their constant availability, or alternatively, if the pilots continued to be despatched from their residence, that the existing trailer accommodation be replaced in the lock area by a more suitable permanent structure with proper facilities. In both cases, direct communication with the despatching office was to be provided (Ex. 917, p. 77).

From the beginning, the Department of Transport had been agreeable to the construction of a new building and had included the necessary funds



in their estimates each year but did not obtain approval until 1964. The pilots were then informed that the building would be constructed and finished by the end of the year. However, they were not satisfied and in a letter dated May 25, 1964, asked that the trailer be moved to the St. Lambert side of the lock until the completion of the building. At first, the Department did not concur because the cost involved was deemed unjustifiable in the circumstances. On September 10, 1964, in a letter to the Minister, the President of the Pilots' Federation stated that, in the circumstances, after October 1, 1964, in case of bad weather, if the pilots were not provided with an adequate temporary shelter as requested, they would wait at their residence and would report only when vessels were ready to receive them on board. A compromise was reached when the pilots agreed that the trailer would be moved to the St. Lambert side but without new lines for public services. The trailer was accordingly transferred on September 24. The new building has been erected since. The pilots now have proper waiting facilities and a telephone line to the despatching office. However, the despatching system has not been changed and, as a result, the problem of ensuring the availability of assigned pilots at the right time has not yet been completely resolved (vide pp. 755 and ff.).

In addition, both at Montreal and Cornwall, the pilots are provided with waiting facilities at the pilotage offices. In practice, the Cornwall pilots who reside in Montreal do not normally use the Montreal pilotage office facilities but proceed to assignments from their residence. However, when they are in Cornwall awaiting a return assignment, they generally call at the pilotage office.

## (2) PILOT VESSEL SERVICE AND LAND TRANSPORTATION

Under the present arrangements, there is no pilot vessel service (and none is necessary) in the Cornwall District as *de facto* extended to Snell lock. The pilots board and disembark in the lock or at an approach wall. There is no necessity for a pilot to do so in mid-stream, except on the rare occasions where a ship has remained at anchor for a considerable period of time, because he is normally required to remain on board and the tariff provides a detention charge for such idle time. If a pilot has to be transported to or from a ship at anchor, the necessary arrangements are made by the ship.

Both St. Lambert lock and Snell lock are so located that they are not serviced by regular public carriers and, therefore, the pilots have to use taxis or private cars. At Cornwall, the Pilotage Authority has arranged for taxi service at a fixed price. Similar arrangements have not been made for transportation to or from St. Lambert lock, probably because, in contrast with the situation at Cornwall, the difference between the distance to be travelled

by the pilots varies so widely in Montreal on account of the size of the city. There, the pilots make their own arrangements and are reimbursed a uniform travelling allowance fixed in the District By-law.

The necessity for resorting to compulsory taxi service at Cornwall arose because trip rates had not been legally established in the tariff and abuses resulted. To ensure uniform charges for the same service, pilotage rates must be fully established by legislation and no item can be determined unilaterally by a party to the contract (Part I, p. 134 and pp. 149 and ff.). The tariff provided (and still provides, p. 976) that, in addition to the trip charge, the ship should be charged the pilot's actual travelling expenses, irrespective whether boarding or disembarking occurred at a regular pilot station or at an intermediate boarding location. Hence, the claims for the same one-way trip to or from Snell lock differed substantially. An equitable solution was reached by awarding a contract to a taxi firm which undertook to provide the necessary transportation on a 24-hour basis for prices fixed in the contract and these in turn were to be charged to the ship as pilotage dues. In this way, a reasonable price is obtained and the pilots are never out of pocket, contrary to the allowance system that had to be adopted for transportation to and from St. Lambert lock. The St. Lawrence-Kingston-Ottawa pilots, however, reacted irresponsibly to this equitable solution by refusing to disembark at Snell lock. A three-week stoppage of work ensued but the pilots finally decided to accept the new system and returned to work (for details, vide pp. 891-2).

The taxi service between Snell lock and Cornwall has functioned ever since, and during the Commission's hearings the pilots stated that it was very satisfactory. The service is also available to the Canadian pilots of the Kingston District. The taxi which brings a pilot to the lock generally waits for the pilot being relieved for the return trip to Cornwall. The 22-mile trip takes about 40 minutes. The American pilots working in the Kingston District proceed instead from or to Massena and have their own arrangements.

The contract for this taxi service is awarded for a fixed term. Tenders are called through newspaper advertisements (for an example of such a contract, vide Ex. 845, *Contract Between Her Majesty The Queen and Veteran's Modern Cab Company* for the navigation seasons 1963 and 1964). The current charges are \$4.70 for each one-way trip with a pilot, \$2.50 for each additional pilot and \$2.30 for each trip when no pilot is carried. Thus, if a Cornwall pilot is ordered for a downbound ship and relieves a U.S. pilot at Snell lock, the ship pays \$7.00 for transportation. If the Cornwall pilot relieves, or is relieved by, a Canadian pilot, the charge is \$4.70; the other \$4.70 is not charged to the ship because travelling costs are not part of the Kingston District pilotage dues. Taxi fares for both Cornwall and Kingston pilots are paid to the company by the D.O.T. representative in Cornwall.

Those on behalf of the Kingston pilots are entered as operating expenses of Great Lakes District No. I, i.e., are paid from the Canadian share of the net operating income of that District. Pilotage dues for the travelling expenses of Cornwall pilots between Snell lock and Cornwall are paid when collected to the Receiver General of Canada to compensate for their taxi fares. Neither the Cornwall pilots nor their Corporation has any hand in the transaction (vide pp. 976-7 for comments from the tariff point of view).

### (3) TUG ASSISTANCE

The transit of the Seaway is effected without tug assistance. When such assistance is needed due to special circumstances, the necessary arrangements are made in advance by the Master or the ship's agent with a commercial firm. The Seaway Authority will take the initiative in ordering tugs if it is considered necessary for the safety of Seaway installations or to prevent operations being unduly impeded. The Seaway has small tugs for moving their equipment in connection with repairs and maintenance but they are not of sufficient capacity to assist large vessels.

### (4) DESPATCHING PROCEDURE

As in other Districts, the section of the By-law governing assignment to duty deprives the Cornwall pilots of freedom to enter into pilotage contracts and makes them *de facto* employees of their Pilotage Authority by providing that they shall not undertake to perform any pilotage service except as directed by the Pilotage Authority's local representative, the District Supervisor. It is a pilotage offence for a pilot to take an assignment that has not been assigned to him by the Supervisor or to refuse one given to him by the Supervisor if he is, or ought to be, available.

The By-law provides that despatching is to be effected according to a regular tour de rôle, i.e., in regular turns as names appears on the assignment list, and not, by contrast with the corresponding regulations for the Districts of Quebec and Montreal, following the equalization of trips procedure. Pilots are to be despatched one at a time, except for a tug and tow composite navigation unit, or during the so-called winter season, in which cases two pilots are to be assigned together. A pilot is to report to the pilotage office his time of departure for the vessel to be piloted and the time when the assignment is completed. It is the pilot's responsibility prior to proceeding on an assignment to obtain from the pilotage office up-to-the-minute information regarding matters affecting the safety of navigation. In other words, the legal position is exactly the same as provided for in the By-laws of other Districts except for the operation of the tour de rôle.

However, although there are no particular reasons to do so except to follow the procedure adopted by the pilots in the other St. Lawrence Districts,



the Cornwall pilots succeeded in having their tour de rôle operated according to the equalization of trips system. There are no pilot grades except the limitations of probationary licences. The great majority of trip assignments are full transit trips, all calling for exactly the same pilotage charge. The only consequence for the Cornwall pilots of applying this system (apart from the complicated despatching procedure which ensues) is that the pilot who happens to have a number of assignments which last longer than the average because of adverse weather conditions, delays at the locks or delays *en route* is required to spend a larger aggregate number of hours on duty than his more fortunate colleagues who happen to have fast trips but, as a result of their private pooling arrangements, receives exactly the same share of the pool for similar availability.

As in the other St. Lawrence Districts, the assignment of pilots was detailed in written rules drawn up by the pilots and validated by the Supervisor. These standing orders are amended from time to time as required (Ex. 744).

(a) *Assignment List*

The pilots are despatched on one-way trips and must remain on board, even if the ship stops *en route*, unless she berths and remains for over eight hours, in which case they are entitled to disembark. Upon completion of a transit, a pilot becomes the despatching responsibility of the station where he arrives and his name is placed at the bottom of the list.

Probably because all the pilots reside in Montreal, the equalization procedure does not apply to the assignment list at the Cornwall station, with the result that pilots high in turns are never kept idle there while those who are low in turns catch up. The equalization system applies only at their base where they can spend the resultant waiting time at home. The assignment list at Cornwall is operated on a strict tour de rôle basis.

At the Montreal station, the equalization of turns is effected daily at 9 a.m. for the pilots who arrive between noon and midnight, and at 9 p.m. for those who arrive between midnight and noon. Since the equalization procedure applies only to periods of availability, the list is prepared by granting the average number of turns performed during periods of absence, or one half turn per day or fraction of a day if the absence was on Corporation business.

A period of absence is counted from the moment a pilot was first taken off the list at his own request until he returns and performs an assignment; intermediate periods of availability do not count if no assignment is performed. The ten-hour rest period is compulsory unless the Supervisor directs otherwise. The purpose of this rule is doubtless to avoid the situation that occurs at times at Les Escoumins, i.e., when there is a shortage, a pilot who

has just arrived may decide to proceed without the proper rest and is permitted to do so because the rest period is not compulsory in the Quebec District (vide p. 435).

*(b) Transfer of Pilots*

As in the other St. Lawrence River Districts, when there is a shortage of pilots at one station, the necessary number will be transferred by land from another station.

When a request for a transfer of pilots is received, they are chosen in the order they appear on the assignment list, beginning with the second.

Except at the beginning and end of the season, it is only occasionally that a pilot is called to report by land either to Montreal or Cornwall. However, during spring and fall when the traffic is mainly in one direction, the pilots have to travel by land to meet the demand.

A pilot may, at his own request, be transferred from one station to another provided he is not among the first five on the assignment list and makes his request during his ten hours of rest. This pilot, however, will be the first to return by land to the station he left if this station requests a transfer of pilots within 24 hours.

At the Cornwall station, the pilots who arrive from an assignment after their ten-hour rest period will be given precedence on the list over those who have transferred there voluntarily by land.

*(c) Change of Turns, Cancellations and Missed Turns*

A pilot who misses a turn is taken off the list and his case is referred to the Supervisor for investigation.

The liberty to change turns is very limited. It must be between pilots who have had their ten hours' rest, with a difference in turns of not more than one, or among pilots with equal turns after November 15. A pilot who has exchanged turns may not exchange turns again before he has performed an assignment.

A pilot may not delete his name from the list at his own volition but deletion is automatic when he is ill or fails to report. His request, however, may be granted by the Supervisor for cause. The minimum period off the list is 24 hours.

In the case of a cancellation, the pilot is replaced first on the list unless the cancellation occurred more than six hours after ordered time. In the latter case, he is entitled to ten hours' rest and on his return is placed second on the list.

*(d) Movages*

Movages do not pose a problem because the Cornwall and Lachine Canals where such services were occasionally rendered have now been closed.

The occasional moveage that may occur at an intermediate port is considered a trip assignment for despatching purposes.

(e) *Complaints about the Despatching System*

The main complaint came from the Seaway Authority in relation to the occasional non-availability of pilots at St. Lambert lock resulting in the interruption of lock operations. For details and comments, vide pp. 755 and ff.

(5) WORKLOAD

The opening of the Seaway changed the working conditions and work pattern of the pilots so completely that it soon became necessary to divide the Montreal/Kingston transit into two pilotage trips with the changeover at Snell lock.

Prior to 1959, the Montreal/Kingston run was restricted to lake and ocean-going ships small enough to negotiate the canals and locks *en route*. As recently as 1958, it took two to two and a half days to complete the trip between Montreal and Kingston. There was daylight navigation only—during the dark hours ships anchored. The opening of the Seaway with its larger canals and locks not only permitted larger ships to come into the system but enabled them to navigate at night as well. One disadvantage was that the pilots were deprived of the opportunity to take proper rest *en route*. Although speed limits imposed either by regulations or by the physical characteristics of the channel prevent full advantage being taken of the speed potential of modern ships, they travel much faster than the former small vessels and must maintain their maximum safe speed for business reasons.

Pilot Desgroseilliers, one of the two former contract pilots employed by the Canada Steamship Lines, stated that in 1963 he made 75 trips between Montreal and Cape Vincent, half upbound and half downbound. Downbound trips averaged 18 hours and upbound trips 22-24 hours. In addition, the pilot's task is increased by modern ships which were either designed or chosen to take maximum advantage of lock dimensions.

All these factors—plus the fact that ocean-going vessels are not primarily designed to navigate and manoeuvre at close quarters—made it necessary to cut the length of pilotage assignments in half. However, navigational difficulties in the Cornwall District are less demanding and less strenuous than in the Montreal District. The nature of the Seaway imposes certain size and speed limitations on ships and, hence, pilotage does not tend to become more difficult and more exacting as is the case in the Quebec District (and to a lesser extent in the Montreal District) where ever larger and faster ships are coming into service. In fact, under the impact of modern technology, the new ships using the Seaway are becoming easier to manoeuvre and safer to navigate.



A comprehensive picture is shown in the following table of pilotage statistics of the aggregate number of trips (vide note on table p. 924), the average share per year pilot, the aggregate pooling turns credited each year, the average per year pilot and the maximum average, i.e., the average of the actual workload expressed in pooling turns for the pilots who were constantly available.

CORNWALL PILOTS—AVERAGE TRIPS AND TURNS PER YEAR PILOT

Year	Number of Year Pilots	Trips		Pooling Turns		
		Aggregate Number*	Average per Year Pilot	Aggregate Number†	Average per Year Pilot	Maximum Average†
1960.....	33.5	2,861	85.4	2,930.0	87.5	97.2
1961.....	32.7	2,601	79.5	2,648.6	81.0	87.3
1962.....	31.8	2,748	86.4	2,654.1	83.5	86.4
1963.....	32.0	2,326	72.7	2,417.4	75.5	79.2
1964.....	33.0	2,730	82.7	2,705.9	82.0	89.71
1965.....	38.7	3,022	78.1	2,941.8	76.0	86.8
1966.....	39.2	3,108	79.3	2,982.72	76.1	84.86
1967.....	38.0	2,978	78.4	2,808	73.9	77.2
1968.....	37.0	2,768	74.8	2,540.14	68.7	69.58
1969.....	37.0	2,812	76.0	2,603.8	70.4	72.65

SOURCES: \*Table p. 924 and † Ex. 823.

This table leads to the following conclusions:

- (a) The aggregate workload has remained substantially constant. No doubt the peak reached in 1966 would have been maintained if it had not been for the various strikes which have affected maritime traffic in recent years.
- (b) The trip statistics and the pooling turns figures vary slightly because they are not made up of exactly the same components. With regard to workload, sharing turns are more significant in that they are related directly to the involvement of pilots in providing service and, therefore, take into account, for instance, cancellations after an extensive detention and time spent by pilots on Corporation and group duties. However, these differences are of very small importance (e.g., the incidence of free turns, table p. 980). Full transits, which have the same value for trip and sharing turn statistics, account for the majority of trips and sharing turns.
- (c) The maximum average is most representative of the pilots' workload—at least the number of assignments—because the equalization procedure is not extended to periods of absence, except free turns whose incidence is minimal. The difference between the maximum

average and the average per year pilot is accounted for by the aggregate non-availability of pilots. In 1964 and 1965, the number of year pilots was artificially high since it became necessary to license new pilots merely as a replacement for pilots still on strength but not available over an extended period of time on account of illness.

The graph in Appendix C shows the fluctuation of pilotage traffic on a monthly basis for the years 1963-1969 (data not available for 1965). This graph prompts the following remarks:

- (i) No pilotage is performed during the winter season proper, i.e., when the Seaway is closed, except for icebreakers opening the channel in the period immediately preceding the opening of the Seaway.
- (ii) Pilotage traffic is uniformly spread out throughout the entire season. The sharp increases and decreases in the first and last month are mostly in appearance only because the graph is plotted on a monthly basis and there is traffic only during part of these months. The other marked fluctuations are all due to complete or partial interruptions of maritime traffic caused by labour disputes which affect the shipping industry directly or indirectly. The all time low in mid-1968 is due to the closing of the Seaway between June 21 and July 13 by the Seaway employees' strike; the decrease in July 1966 is due to the grain elevator employees' strike from June 16 to August 9; the low in 1967 is due to the Seaway International Union strike which lasted from August 17 to September 25; etc.

The duration of a full transit does not depend so much upon the speed of the ship (since most ships now can exceed the maximum permissible speed) but to outside factors, such as weather conditions, and mainly congestion in the locks. Downbound trips are always somewhat faster on account of the current.

During the 1962 navigation season, pilot G. B. Pinal kept a record of his own time and found that the average trip from the time he sailed—both upbound and downbound—was 14 hours. In 1963, his average was still between 14 and 15 hours but a few trips lasted up to 22 hours because of the traffic. When a trip lasts so long, it means that the ship has to anchor until her turn comes to proceed to the wait wall. He stated that a pilot may have some rest while the ship is at anchor in such circumstances but, even if sleeping accommodation is available either in the chart room or the wheel-house, he added that he would still remain awake in order to be ready to proceed without delay when the necessary instructions arrive from the Seaway despatcher.

In pilot Pintal's opinion, the best time for an upbound ship would be 10 hours, for a small ship downbound, 8½ hours and for a large ship, 10 hours.

The average duration of trips for the years 1961, 1963 and 1964, as quoted in a table compiled by the Department of Transport showing the earnings and workload of the Cornwall pilots for the years 1962, 1963 and 1964, is stated as being respectively 12.1 hours, 14.4 hours and 14.8 hours. Statistics were not available to make similar calculations for the year 1962, but in a letter dated July 12, 1962, addressed to the pilots' counsel by the Deputy Minister, the average time for a pilotage assignment during the month of May 1962 is quoted at 14.03 hours (Ex. 1331).

The records kept by pilot W. Watier (Ex. 1417) (vide pp. 966-7) show the duration of the trips (assignment) being performed between April and September inclusive, 1964. The figures in brackets denote the number of trips interrupted *en route*.

Hours	Upbound	Downbound
18-19.....	nil	1 <sup>(1)</sup>
17-18.....	nil	nil
16-17.....	nil	nil
15-16.....	nil	nil
14-15.....	3	nil
13-14.....	2 <sup>(1)</sup>	8 <sup>(1)</sup>
12-13.....	11 <sup>(1)</sup>	6 <sup>(1)</sup>
11-12.....	6 <sup>(3)</sup>	7 <sup>(2)</sup>
10-11.....	9 <sup>(1)</sup>	4
9-10.....	5	1
8-9.....	1	2
Total.....	37	29

In the survey made by the Pilots' Corporation to support their brief to this Commission, they obtained the following statistics on prevailing conditions during the 1962 navigation season:

Night assignments .....	61.4 %
Rain .....	14.7 %
Fog .....	7.9 %
Ice and snow .....	1.08%
Wind .....	21.2 %

By comparison with the results of similar surveys in the Districts of Quebec and Montreal, the weather conditions are less severe but the apparently favourable incidence of ice and snow is deceptive because there is



no winter navigation as such. However, assignments which involve night navigation are more frequent and these are generally upbound trips. Pilot Pintal explained that in Montreal ships load and unload during the day and sail at night.

The same survey established that a Cornwall pilot's weekly time on duty was spent on the average as follows:

- (i) aggregate advance warning time, i.e., time elapsed between receiving an assignment and being ordered to report on board (ordered time): 6 hrs. 43 min.;
- (ii) aggregate waiting time after ordered time before departure (sailing time): 3 hrs. 33 min.;
- (iii) aggregate time aboard piloting, including detention *en route*: 34 hrs. 1 min.;
- (iv) aggregate travel time between vessel and pilot station: 2 hrs. 3 min.

Thus, the total time between ordered time and arrival time at the station was 39 hrs. 37 min.

As seen from the graph, Appendix C, and from evidence received, except for disturbances created in the normal pattern by strikes, the pilotage demand is spread out quite evenly throughout the season. There is a slight peak at the beginning and end of the season when the traffic is predominantly in one direction, thus disrupting the normal despatching procedure and requiring that pilots be transferred from one station to the other to meet shortages. The following table shows for the years 1962, 1963 and 1964 the busiest month and the least busy month, i.e., the months when the aggregate number of hours spent by all pilots actually piloting was the largest and the smallest, disregarding incomplete months, i.e., April and December and the winter months of January, February and March when there is no navigation. Since the pilotage demand has remained substantially the same, these statistics are still indicative of the present general situation (Exs. 828 and 1300):

Year	Busiest Month				Least Busy Month			
	Month	Aggregate pilots' time on assignments	Busiest Pilot		Month	Aggregate pilots' time on assignments	Busiest Pilot	
			No. of assignments	Total time on duty including detention			No. of assignments	Total time on duty including detention
		(hrs.)		(hrs.)		(hrs.)		(hrs.)
1962.....	Oct.	5780.2	13	205.5	July	4210.1	14	172.5
1963.....	Nov.	5265.1	11	208.9	Aug.	3734.2	12	160.6
1964.....	Nov.	5909.8	10	240.0	Sept.	4728.2	14	192.5

The unidirectional trend is apparent when the busiest month is closer to one end of the season. The busiest pilot was required to travel by land only once in October 1962 to meet a shortage at St. Lambert lock. The pattern is very apparent in November 1963 and 1964, when the busiest pilot was required each year to transfer by land three times to meet a shortage at Snell lock. Surprisingly enough, in the least busy month in 1962, the busiest pilot changed station four times to meet a shortage at Snell lock. On the other hand, there was no transfer by land in August 1963, and only one in September 1964. The unusual number in July 1962 must have been caused by special circumstances which altered the traffic pattern and also possibly by the number of pilots on leave, since the annual holiday is taken during the summer months.

The influence of Seaway congestion and ensuing delays is apparent from this table. The busiest pilot did a smaller number of assignments in the busiest month than in the least busy month, but his aggregate time on duty was always greater in the busiest month, since each trip took much longer. By contrast with the pattern in other Districts, vessels not taking pilots influence the duration of pilotage trips directly on account of congestion at the locks when overall traffic increases.

To provide a clearer picture of the employment of a pilot's time, pilot Willie Watier, residing in Montreal, kept a detailed analysis of his time for the 1964 navigation season April to September inclusive. A graphic representation of the distribution of his time on a 24-hour basis for the busiest and least busy month of the period covered by his records, i.e., May (the third busiest month (5177.1 hrs.) after November (5908.8 hrs) and October (5432.6 hrs.)) and September, appears as Appendix B(1). The table on p. 967 shows on a per month basis the analysis of his records.

This table and the graphs, Appendix B, prompt the following remarks:

- (i) Except for April, the month when the navigation season opened, pilot Watier's workload is comparable from month to month; there is no marked variation.
- (ii) Most of the detention time occurs at the boarding stations at St. Lambert lock and Snell lock where ships are delayed through circumstances beyond their control, i.e., lock operations and traffic congestion.
- (iii) The effect of the different methods of operating the tour de rôle at Cornwall and Montreal (the latter in order to enable the pilots to spend most of their idle time at home in Montreal) is clearly apparent.
- (iv) In May, on 6 out of 11 assignments, pilot Watier was piloting at noon and on 5 at midnight; in September, out of 12 assignments, on 3 at noon and on 8 at midnight.

CORNWALL PILOT WILLIE WATER  
COMPARATIVE DISTRIBUTION OF TOTAL AGGREGATE TIME ON A 24-HOUR BASIS DURING APRIL-SEPTEMBER 1964

Distribution of Total Aggregate Time	April		May		June		July		August		September	
	turns	hrs. mins.	turns	hrs. mins.	turns	hrs. mins.	turns	hrs. mins.	turns	hrs. mins.	turns	hrs. mins.
Trips.....	6	65 58	11	137 45	12	145 45	14	166 30	11	117 00	12	141 35
Movages.....	0	00 00	0	00 00	1	3 5	1	1 20	0	00 00	0	00 00
Cancellations.....	2	50 00	0	00 00	0	00 00	0	00 00	0	00 00	0	00 00
Detentions: <i>En route</i> .....	4	13 33	3	6 05	1	1 00	3	11 05	0	00 00	1	3 05
At boarding stations after ordered time	6	12 34	11	31 35	13	27 40	14	16 25	11	14 15	12	5 25
Land travel (between stations, and between station and out- port).....	4	9 47	1	2 28	2	4 56	4	10 14	3	7 12	4	9 18
Waiting at outposts for assign- ment.....	5	53 55	6	121 45	7	156 57	9	169 32	7	102 05	8	142 30
At home (Montreal) between as- signments, including rest per- iods, if any.....	8	563 23	7	444 22	9	380 37	11	368 54	10	503 28	9	418 07
Total Aggregate Time.....		720 hrs.		744 hrs.		720 hrs.		744 hrs.		744 hrs.		720 hrs.

Source: Exhibit 1417.



- (v) In May, he had no pilotage assignment and was at home on 14 calendar days; in September, 8 days.

## 6. PILOTAGE REVENUE AND TARIFF

In the Cornwall District, the pilotage rates also have a direct impact on the pilots' remuneration because they are paid the dues they earn through their individual services, less their prorated share of Corporation and group expenses.

The tariff items reflect clearly the characteristics of the pilotage services rendered, i.e., mostly transit voyages. Since 1965, the same method has been adopted as in the other St. Lawrence Districts to increase pilotage dues without changing the tariff structure, namely a surcharge. The 12% surcharge which was introduced in 1965 has been gradually increased each year to 17%, 24%, 34% and finally, in 1969, 40.7% applicable to all pilotage dues including the transportation allowance to and from St. Lambert lock (item 5). It does not apply to item 6 of the tariff which provides for the reimbursement of actual travelling expenses (Ex. 1540(f)).

The table p. 969 analyses pilotage earnings for the years 1962, 1964, 1966 and 1968, and also shows in percentage the relative importance of each item of dues accruing to the pilots as revenue and not as reimbursement of travelling costs.

### (1) PILOTAGE VOYAGE CHARGES (TRIP CHARGES)

Trip charges account for nearly the whole of the pilots' revenue: 95% in 1962 and 93.3% in 1968, the decrease being accounted for by the enlarged field of application of detention charges since 1965.

There are only two types of charge that apply in the computation of dues for pilotage performed during a trip: basic rates and winter tariff.

The tariff does not contain any provision for piloting dead ships, although the interpretation section of the By-law contains a definition of dead ship. Subsec. 15(6) authorizes a double assignment to a composite navigation unit consisting of a tug and tow.

#### (a) *Basic Rates*

The basic rate now consists of a flat charge for the whole transit irrespective of the size or type of the navigation unit.

When the Cornwall District was created in 1960 the former rate structure was retained. It was similar to the system in force in the Quebec and Montreal Districts, i.e., a trip charge based on two components, a draught charge (\$5 per foot draught) and a tonnage charge ( $\frac{1}{2}\phi$  per NRT) with a minimum aggregate charge (\$87.50). Partial transits called for charges computed on a pro rata basis of the distance run, subject to a minimum charge of \$25.

## CORNWALL PILOTS' COMPARATIVE ANALYSIS OF EARNINGS AND DISTRIBUTION OF PILOTAGE DUES

Pilotage Dues	1962	1964	1966	1968
<b>A Pilotage Dues Earned</b>				
<b>I Pilotage Dues Representing Revenues for Pilots</b>				
Trips.....	\$414,912.00	\$435,994.50	\$464,214.42	\$554,069.45
Second pilot (winter tariff).....	2,000.00	7,300.00	11,080.06	14,667.16
Movages.....	1,452.30	2,008.50	2,269.02	2,806.72
Detentions.....	8,366.71	9,298.67	29,796.25	21,812.93
Cancellations.....	859.60	690.10	1,609.76	178.31
<b>II Dues in Reimbursement of Travelling Expenses</b>				
Paid to pilots.....	11,609.85	11,540.80	15,708.14	15,903.98
<b>Total Dues Accruing to Pilots</b>	<b>439,200.46</b>	<b>467,032.57</b>	<b>624,697.65</b>	<b>609,438.55</b>
Paid to Receiver General of Canada (Cornwall taxi service).....	9,512.60	11,560.40	22,983.90	19,193.00
<b>Total Pilotage Dues Earned</b>	<b>\$448,713.06</b>	<b>\$478,592.97</b>	<b>\$647,681.55</b>	<b>\$628,631.55</b>
<b>B Distribution of Pilotage Dues Earned</b>				
<b>I Paid to Pilots' Corporation.....</b>				
<b>II Paid to Receiver General of Canada....</b>	<b>\$439,200.46</b>	<b>\$467,032.57</b>	<b>\$624,697.65</b>	<b>\$609,438.55</b>
<b>Total Distribution of Pilotage Dues Earned</b>	<b>\$448,713.06</b>	<b>\$478,592.97</b>	<b>\$647,681.55</b>	<b>\$628,631.55</b>

Source: Ex. 534(c).

In 1961, the trip rate structure was changed to a practical system: a single flat rate charge for the full transit and the dues for partial transits computed pro rata to the distance run with a \$25.75 minimum. This system discriminates against small vessels but the question is more or less theoretical.

However, a specific tariff provision would be required to authorize a higher charge when two pilots are jointly assigned, since the tariff is based on the type of service rendered and not the number of pilots assigned. Despite the tariff deficiency in this respect, the dues are assessed as follows in the case of a tug and tow (Ex. 1540(e)):

- Two pilots assigned—2 tariff charges;
- One pilot ordered for the tug and tow, the latter being exempt from the compulsory payment of dues—1 tariff charge;
- One pilot ordered for both, neither tug nor tow being exempt—2 tariff charges;
- One pilot ordered for both, the tug being exempt—1 tariff charge.

The foregoing shows the illogical situation which develops in the case of a composite navigation unit when the case is not provided for in the tariff. Here, the Pilotage Authority applies contradictory principles to the advantage of the pilots. Although the tariff is based on the type of assignment and not the number of pilots assigned (e.g. the winter charge will be added after Dec. 1 even if only one pilot is assigned), two tariff charges are made if two pilots are assigned. However, if the Pilotage Authority decides to assign only one pilot, two charges will nevertheless be made if neither of the two vessels happens to be exempt from the compulsory payment of the dues, despite the fact that compulsory payment does not apply since use is being made of the pilotage service.

The tariff should be amended to cover composite navigation units (vide Part I, p. 176). In the absence of specific tariff provisions, charging a higher rate in such a case—whether or not one of the two vessels is exempt, whether or not it is a joint assignment—is illegal.

The size of a ship is no longer a significant factor since small ships have, for all practical purposes, disappeared and been replaced by larger ships, all approximately the same size to meet the ceiling imposed by lock dimensions. The important factor is the duration of an assignment and speed has little bearing because the maximum permissible speed is well below the potential of most, if not all, vessels trading in these waters. The duration of an assignment is determined by factors beyond a ship's control, such as adverse weather but mainly traffic congestion at locks, which make the difference between a fast or slow transit. Therefore, a flat, uniform rate was an equitable solution.

The flat rate for the full transit was first established in 1961 at \$145 and was raised to \$160 in 1962 following the strike of the pilots in the St. Lawrence River Districts. Prior to the beginning of the 1962 navigation



season, the pilots had demanded that the trip charge be raised to \$175. The main argument in support of the proposal was to achieve parity with the trip rate in effect in the Kingston District (Ex. 1540(h)). Since no agreement was reached in the winter negotiations, this item became one of the demands of the Cornwall pilots for which they went on strike. In the compromise settlement an increase to \$160 was conceded by the Pilotage Authority in return for the pilots' undertaking not to ask for any further increase during the next three years. The tariff was amended accordingly.

The amount of the rate has remained unchanged but, like other rate items, it has been increased through the device of general surcharges since 1965.

Rates for partial transits did not at first present any practical problem for the pilots until they became more frequent, although they are still rare. The rule was, and still is, that the dues for a partial transit consist of a fraction of the flat rate corresponding to the distance run. The pilots succeeded in having this rule modified in two specific cases so that a partial trip, despite the distance run, would call for a higher charge. In 1965, such special rates were established for partial trips up to Côte Ste-Catherine wharf, i.e., \$40 from or to St. Lambert lock, and \$160 from or to Snell lock, with the proviso that the ensuing charge would be \$180 if the full transit was completed after stopping at Côte Ste-Catherine wharf. In 1967, another exception was created for trips between St. Lambert lock and Port de Valleyfield: \$96 plus a \$25 berthing and unberthing charge at the latter.

During the winter negotiations of 1966, the pilots requested an increase in the basic rates of \$50 as remuneration for that part of a pilotage trip outside the District limits, e.i., between St. Regis and Snell lock, and the adoption for partial trips of the method in force in the Quebec District, with three zones between St. Lambert lock and the western District limit at St. Regis, the dividing lines being the foot of Beauharnois lock and Valleyfield bridge, and the tariff for each zone being one-third the full rate. In effect, it was suggested that the full transit be divided into four zones—St. Regis to Snell lock being the fourth—with a substantial increase in the basic rate which would have risen from \$160 to \$210, not counting the applicable surcharge.

The proposal was opposed by the Shipping Federation mainly because of the substantial rate increase involved. Furthermore, following the policy that had been adopted the year before, the Pilotage Authority refused to change the tariff structure and to deal with specific items in the tariff. The 12% surcharge that had been granted in 1965 was raised to 17% applicable to all pilotage charges. As seen earlier, this surcharge has been increased considerably from year to year since.

### COMMENTS

Although the pilots' proposal did not provide for higher rates per zone for partial transits (vide comments on Montreal system pp. 780-81), it is considered that the zone system is only a partial solution which should not be resorted to if substantial injustice is to result, e.g., in the case of a port or landing place situated near a zone limit. It is considered more equitable to base rates on distance run to the nearest mile or a fixed number of miles with an adequate minimum charge. In this way, there will also be less risk of making pilots unavailable without due compensation.

The pilots were wrong *de facto* but right *de jure* in stating that they were not remunerated for that part of the pilotage trip between St. Regis and Snell lock, i.e., outside the limits of their Pilotage District. The trip rate of the Cornwall District tariff was, and still is, considered to cover the full transit between St. Lambert and Snell locks but the Pilotage Authority is powerless to fix rates for pilotage services performed outside its District. Rates as well as other regulations made by a Pilotage Authority apply only within the limits of its own District (sec. 329 C.S.A.). The Pilotage Authority was well aware of this problem and in the tariff avoided referring to Snell lock but mentions instead "the pilot boarding station near St. Regis, Quebec" and resorted to a gentlemen's agreement with the pilots in lieu of settling the legal problem involved. Such arrangement can be only a shortlived solution and the same argument with its full legal impact is liable to be raised by the Cornwall pilots as a means of pressure whenever the occasion arises (as occurred during the winter negotiations in 1970).

Since the Cornwall pilots have now been issued Great Lakes Basin registration certificates for pilotage between St. Regis and Snell lock, a temporary solution would be to have a rate for that part of the transit trip fixed by the regulation-making authority for the Great Lakes Basin under subsec. 375c(1)(e). The Cornwall Pilotage Authority in turn would have to reduce its trip rate so that the aggregate rate for the full transit between St. Lambert and Snell locks would remain reasonable and equitable. Doubtless in anticipation of such a move, the Cornwall pilots threatened in the winter of 1970 to resign their Great Lakes Basin pilotage registration. Such a solution, however, involves many administrative complexities, e.g., the pilots coming under two separate authorities during the same trip.

The simplest and only effective solution is to include the sector St. Regis-Snell lock in the Pilotage District of Cornwall (vide Rec. No. 3).

#### (b) *Winter Tariff*

Apart from special cases of detention, winter tariff takes the form of two extra rates: winter surcharge, and a charge for lengthy trips.

As in the other St. Lawrence Districts, the remuneration of the second pilot on trips when ice conditions prevail became a new tariff item in 1961 when the practice was officially recognized. It took the form of the usual surcharge applicable to all trips between December 1 and April 8, whether or not two pilots are assigned. Because of the uniform flat rate system the winter charge was also fixed at \$100.

The winter charge forms part of the trip charge and, therefore, is pro rated in the case of a partial trip. The revenue derived from that source varies greatly from one year to another depending upon the length of the so-called winter season. For instance, in 1962, it accounted for only 0.5% of the pilotage revenues accruing to the pilots, but 2.4% in 1968.

In a memorandum dated January 5, 1966, the Pilots' Corporation recommended that the winter tariff structure be modified so that:

- (i) two full trip charges be made since two pilots are assigned;
- (ii) the time factor be added to take into account the longer duration of assignments due to winter conditions, i.e., an hourly charge paid in addition to the basic rate and the winter rate for each hour exceeding 14 hours.

The proposal was opposed by the Shipping Federation and the double rate was not granted. However, the hourly charge for lengthy trips has been applied from December 1, 1965, although it was neither incorporated in the tariff nor ratified by regulation. Between Dec. 1, 1965, and the end of the navigation season that year, it brought in additional revenue amounting to \$3,005. The agreement had been reached between the pilots and the Pilotage Authority in October 1965; it reads as follows (Ex. 1540(g)):

"That when the passage of a vessel is slowed on account of ice or traffic beyond 14 hours, which is considered the normal duration of a passage in the District, a detention of \$5 for each hour or part thereof to apply; the aggregate amount payable shall not exceed \$25 for each calendar day that the pilot is detained."

#### COMMENTS

It is unnecessary to demonstrate that the hourly impost has been illegally applied since 1965. This is a further example of the failure of those in charge to realize the necessity for, and the rôle of, legislation in the pilotage organization as provided under Part VI of the Canada Shipping Act. In addition, it is considered that, while the hourly charge may have merit, it is being given a scope of application which is too wide in the circumstances of the District.

In making their requests, the Cornwall pilots merely followed the pilots of the Districts of Quebec and Montreal but the situation was not comparable since, first, there is no true winter navigation in the Cornwall District and,



second, the proposal fails to differentiate between winter factors and those that exist all year long in the Cornwall District but are not met in the other Districts.

The proposal that the time factor should be considered when establishing the tariff is valid, provided it is limited to increased duration of transits directly due to winter conditions alone and not to conditions that occur any time during the normal season, e.g., congestion at the locks. Therefore, the rule that was unofficially adopted in October 1965 is faulty in that it does not take into account this fundamental difference in circumstances which determines the nature and conditions of service in the District. When no winter conditions prevail, it is basically wrong to impose the hourly rate on trips which last longer than 14 hours because of congestion at any lock in the District, simply because the trip happens to occur after December 1 or before April 8.

If a time factor is to be retained—as would be justified when it is actually related to winter navigation, the tariff should be drafted to exclude from its application time spent in locks or at wait walls waiting to proceed, or slowdowns due to a decrease in speed *en route* ordered to enable timely arrival at a lock.

## (2) OTHER SERVICES

### (a) *Movages*

The tariff provides two flat rates for movages: \$15.45 and \$30.90, the higher rate applying when the movage involves passing through one or more locks.

The term “movage” is defined in the By-law (subsec. 2(g)) as “the moving of a vessel within a harbour from one anchored or moored position to another”. Therefore, the higher movage rate has no longer any application since none of the Seaway locks forms part of any harbour. This applied to the Lachine Canal and the Cornwall Canal which have now been enclosed.

Since there is no port of importance in the Cornwall District, a movage is a rare occurrence. The revenue derived from this source accounts for less than 1% of the total pilotage revenues (vide table, p. 969).

## (3) INDEMNITY CHARGES

### (a) *Detention*

The detention charge is the second source of revenue in importance. It increased almost three-fold in 1965 (from \$9,298.67 in 1964 to \$26,701.17) because free detention time was reduced from 2 hours to 1 hour. The main cause of detention was waiting to board either at Snell lock or mostly at St. Lambert lock when ships were delayed by traffic. The situation has been

improved since, principally because of better despatching procedure (vide complaints about double detention at St. Lambert lock, pp. 755 and ff.).

There are three types of detention:

- (i) at a boarding station awaiting a ship's arrival;
- (ii) idle time in port or at a landing place *en route* while loading or unloading cargo;
- (iii) idle time *en route* due to a ship's machinery breakdown.

Except for the first case, the detention provision conforms to the nature and purpose of the detention charge (Part II, pp. 157 and ff.) and applies only to delays for which the ship is responsible, not to delays beyond the ship's control, e.g., adverse weather conditions or a shipping casualty due to causes other than mechanical breakdown.

It is wrong, however, to impose a penalty for the time the pilot has to wait at a boarding station for the arrival of a ship *en route*, especially when the cause of the delay is beyond the ship's control.

It is one of the basic requirements for pilots that they be available at boarding areas awaiting for ships to arrive, and the pilotage contract in the case of a ship *en route* commences only when the pilot boards. ETA's at a boarding station are merely notifications to facilitate assigning pilots and improving their working conditions. A lockage should not be confused with a departure from a harbour berth. In the latter case, the decision when to leave is made by the Master—therefore, when he requires a pilot to report at a certain time, it is reasonable to require him to pay detention if the departure is delayed substantially. The situation at a lock, however, is totally different in that a ship's arrival time in the lock area where the pilot is to board is governed by factors beyond the Master's control and which he is unable to appraise, i.e., the speed of Seaway operations, the density of traffic, the *expertise* of those conning other ships during lockage operations and, occasionally, even a break in operations due to a shipping casualty or a faulty manoeuvre by another ship.

There would be no problem if a reserve of pilots were maintained both at St. Lambert lock and Snell lock since the pilotage contract begins only when the pilot actually embarks. Ships should not be penalized because the pilots are allowed to remain at their place of residence as long as possible in order to improve their working conditions. The pilotage despatcher is responsible for setting ordered time based on his experience and the latest traffic information, and for advancing it sufficiently to enable him to assign another pilot if the first one is delayed *en route* or fails to report. Therefore, this provision should be deleted (vide similar recommendation regarding the Montreal District tariff, pp. 784-5 and further comments, pp. 741-3 and 759-60).

(b) *Cancellation*

The tariff contains the usual provision regarding cancellation. The rate is \$10.30 (plus general surcharge) combined with a detention charge if the cancellation occurs more than one hour after ordered time, provided the pilot has actually reported for duty (for comments, vide p. 474).

The revenue yielded from this source is always small (vide table, p. 969).

(c) *Transportation Allowance and Travelling Costs*

The tariff provides that actual expenses incurred by the pilots to reach boarding stations or any other boarding place within the District are chargeable to ships as pilotage dues, with transportation costs to and from St. Lambert lock a uniform \$3.00 charge (plus the general surcharge). As seen earlier, transportation between Cornwall and Snell lock is provided by a taxi firm under a contract with the Department of Transport. Hence, dues collected from ships on this account are paid to the Receiver General of Canada to reimburse the payments made by the Department (vide pp. 956-8). For travelling expenses to and from Valleyfield or Côte Ste-Catherine lock, the Pilotage Authority charges ships a flat \$7 instead of the actual expenses incurred. The surcharge is not applied (Ex. 1540(f)).

Dues from this source are substantial but, as seen earlier, they accrue only partially to the pilots and do not increase their net revenue. For the incidence of these charges, vide table p. 969.

*COMMENTS*

It is wrong in principle to make the actual cost of the pilots' land transportation to and from an assignment an element of pilotage dues. The pecuniary consideration of the pilotage contract must be fully covered by rates contained in the Regulations and it is illegal to leave any part of them to be determined either administratively or by circumstances which will cause the amount to vary from one case to another and according to such factors as the type of transportation taken, or whether one or more pilots are transported at the same time or per round trip, or the distance from the pilot's place of residence to the boarding area. The rates should be such that the pilotage dues a non-exempt ship will be called upon to pay are exactly the same whether or not a pilot has been employed (Part I, pp. 150-153).

Reimbursing pilots for travelling costs is a matter of internal service organization. In Districts like Quebec and Montreal (except for St. Lambert lock, vide comments pp. 784-5), pilots bear their own transportation costs; in Districts such as B.C., they are reimbursed from the gross District revenues the travelling expenses they have actually incurred, without the actual amount being made part of pilotage dues. These transportation costs are regarded as



part of the outlay required to provide service and, therefore, are taken into consideration when the rates are fixed. Hence, these tariff provisions should be abrogated and inclusive pilotage rates adopted at a level sufficient to provide the pilots with adequate net remuneration after travelling expenses have been met (Part I, p. 153 and pp. 186-187).

#### (4) COST OF THE SERVICE TO THE CROWN

As in the other Pilotage Districts where the Minister is the Pilotage Authority, the direction and administration of the District and the service are effected by employees of the Department of Transport which supplies the necessary funds.

In the Cornwall District, these are limited to those required to maintain and operate the pilotage offices and provide the pilot station at St. Lambert lock. There is no pilot vessel service and the pilots need not be provided with portable radiotelephone sets since VHF is mandatory equipment for ships transiting the Seaway.

These facilities and their administrative staffs are shared with the pilots of the adjacent Districts. For details of the share of the Cornwall District for expenses incurred by the Department of Transport in connection with pilotage, reference is made to Part I, Appendix IX, pp. 634 and ff.

### 7. PILOTS' REMUNERATION AND POOLING SYSTEM

#### (1) METHOD OF REMUNERATION AND POOLING SYSTEM

Subsection 9(1) of the District By-law provides that each pilot is entitled to the pilotage dues received for the pilotage services he has personally performed. Therefore, this means that a pooling system does not exist officially and that dues collected on account of the compulsory payment system ought to be paid to the Receiver General of Canada because, in view of the despatching system, no pilot can have any claim on them under subsec. 351(1)(b) C.S.A., and there is no Pilot Fund (subsec. 351(2)) nor a Pilotage Authority's expense fund (vide Part I, pp. 99 and ff.).

The factual situation, however, is different: the pilots are paid through a pooling system they have devised and operate themselves.

By contrast with the situation in the Quebec and Montreal Districts, there is no real need for a pooling arrangement since the monetary value of trip assignments is always the same flat rate and is already averaged. The great majority of pilotage assignments are full transit trips and each pilot with full availability is assured of substantially the same as his colleagues'

aggregate earnings because the despatching system guarantees equal sharing of assignments. No doubt the pilots adopted this method of remuneration because either a straight salary or pooling is a necessary consequence of a system of controlled pilotage in which they have the status of employees or quasi-employees. It also allows the pilots to benefit, in fact if not in law, from the dues which accrue as a result of the compulsory payment system. The most obvious reason, however, is that it is the easiest way (although totally illegal in the case of a corporation formed under Part II of the Federal Corporations Act) to finance the operations of the Pilots' Corporation and prorate expenditures incurred for their general benefit.

They have adopted the same pooling procedure as the Montreal harbour pilots and have avoided the problem of financing the pilots' shares by making distributions only as dues are collected.

The only substantial variation from the Montreal harbour pilots' pooling system is that the financial year is divided into two distinct pooling periods governed by different rules: the *regular pool* and the *winter pool*.

The regulations governing pooling are contained in Corporation By-law No. 2 (Ex. 806) as amended, By-law No. 14 dated August 25, 1965, being the most recent amendment (re legality of such by-laws, vide Part I, pp. 89 and ff.). The original provisions of this By-law were based on the Montreal river pilots' pooling procedure under which each distribution is final. However, in practice, this is not followed. Sharing extends over the whole pooling period and advance distributions are made from time to time.

The common fund comprises all pilotage dues paid by ships, except bonuses additional to the dues set out in the tariff and dues payable for detention, cancellation and compass adjustment. According to the text of the By-law, detention dues which do not form part of the pool are supposed to be limited to those paid for idle time on board; in fact, no detention earnings form part of the common fund or pool.

Corporation liabilities and group expenses are paid out of the pool as they become due, but pilotage dues separate from the common fund are paid in full to the pilots to whom they belong during the first distribution after collection.

Advance distributions are made when, and in the amount, decided by the Board of Directors. The practice has been to make an advance distribution regularly every fortnight during the navigation season, normally \$500. If there is a surplus on hand, the advance is increased to \$1,000, usually in August and at the end of November.

(a) *Regular Pool*

The regular pooling period extends from the beginning of the season to the end of October.

Sharing is calculated on the aggregate dues in the pool which were earned or became owing during the pooling period, after deducting Corporation operating expenses and group expenditures other than those paid on behalf of pilots individually.

As in the other St. Lawrence Corporations, sharing rights are computed through a composite formula based on number of assignments performed and availability for duty. All pilots with maximum availability receive a full share. Any slight difference in the number of assignments resulting from the tour de rôle is adjusted by granting a full share, even though the aggregate number of turns may be two less than the maximum average, i.e., the average number of turns completed by those who were constantly available. This number is not rounded off to the next digit, with the result that most pilots have a fraction in the number of sharing turns to their credit. A partial share is established by deducting from a full share the value of missed turns in excess of two above the average.

At the end of the pooling period, the average number of turns which entitles a pilot to a full share is computed and the actual share of each one is established as indicated above, together with the balance owing after deducting advance distributions and amounts paid on his behalf, i.e., fees for the Federation, the Guild and initiation, and insurance premiums.

Trip assignments normally count for one turn each. The By-law foresees granting only one-half turn in case of trips of very short duration as determined by the Board of Directors. Movages and the special type of trip assignment consisting of a tug and tow are to be granted the number of turns or fraction of turns determined by the Board of Directors. The practice followed (which is not enunciated in the By-law) is to grant the number of turns or fractions of turns corresponding to the amount of dues earned by such assignments compared to normal trip assignments.

As a rule, a pilot does not have the benefit of equalization of turns for turns missed during periods of absence. There are two exceptions: in the case of the death of a member of the pilot's immediate family, he is entitled to four days' absence for which two turns are to be granted for both despatching and pooling purposes; free turns to Directors also count for pooling purposes. One-half turn is now granted for each day or fraction of a day spent by a Director on Corporation affairs. In 1961, the number of turns so granted was increased to one free turn per day, but a 1965 amendment re-established the previous rule.



The following table gives the details and monetary value of free turns granted 1960-1969:

ADMINISTRATIVE FREE TURNS

Year	Aggregate Number of Free Turns	Pilots Sharing	Net Value of the Sharing Turn	Monetary Value of Aggregate Free Turns	Amount Paid by Federation for Free Turns
1960.....	1	1	\$111.50	\$ 111.50	\$ - 80.00
1961.....	n/av.	n/av.	139.38	n/av.	1,957.50
1962.....	n/av.	n/av.	154.08	n/av.	nil
1963.....	n/av.	n/av.	150.86	n/av.	nil
1964.....	n/av.	n/av.	153.14	n/av.	nil
1965.....	19	5	168.54	3,202.26	nil
1966.....	11.5	5	176.15	2,025.73	nil
1967.....	21	5	183.89	3,861.69	nil
1968.....	20	5	198.28	3,965.60	198.40
1969.....	10	5	208.72	2,087.20	nil

SOURCE: Ex. 823.

(b) *Winter Pool*

The winter pool does not correspond to the so-called winter season (p. 973) but comprises only the last part of the navigation season from November 1.

The Cornwall pilots decided to adopt this special pooling system because other methods encouraged absenteeism at the end of the season when the services of every pilot were most needed. For example, under a system based on the equalization of trips a pilot whose aggregate number of turns was above average had no incentive to continue piloting.

The winter pool was introduced by a By-law amendment dated October 9, 1964. Those with constant availability shared equally, irrespective of the number of turns to their credit. The value of one-half turn was deducted from the full share for each day of absence during the period in question.

After the experience gained in the fall of 1964, the basis of the winter pool was modified by a By-law amendment dated December 15, 1964, which, for pooling purposes, replaced turns by availability. At present, a pilot who is constantly available receives a full share; one who has been absent receives a share prorated to the number of days he was available during the winter pooling period. The value of each day of availability is established by divid-

ing the aggregate amount of dues forming part of the pool which became owing during the winter pooling period by the aggregate number of "pilot days".

## (2) PILOTAGE INCOME

The remuneration of the Cornwall pilots may be defined as revenue received from the pool (their share of the regular and the winter pool plus payments made from the regular pool on their behalf), their share of group expenses and any non-pooled dues (excluding reimbursement of personal expenses) they have earned. There are no deductions for Pilot Fund or Pension Fund.

The Cornwall pilots are fully reimbursed (or at least compensated) for any land transportation expenses they incur travelling to and from assignments of any type (p. 976). This must be taken into consideration when comparing these earnings with those of pilots in other Districts where there is no such reimbursement, e.g., the Quebec and Montreal pilots.

The following table shows for the years 1960-1969 the number of pilots sharing in the regular pool and the winter pool, the number who obtained a full share and the amount of such full share and, finally, the maximum amount a pilot who was available during the whole navigation season obtained from both pools:

### POOLED EARNINGS

Year	REGULAR POOL			WINTER POOL			TOTAL
	Total Pilots Sharing	Pilots with Full Shares	Amount of Full Share	Total Pilots Sharing	Pilots with Full Shares	Amount of Full Share	Full Share in Both Pools
1960.....	35	15	\$10,837.80	nil	nil	\$ nil	\$10,837.80
1961.....	32	22	12,167.87	"	"	"	12,167.87
1962.....	33	19	13,319.02	"	"	"	13,319.02
1963.....	32	22	11,948.47	"	"	"	11,948.47
1964.....	36	21	13,738.34	31	30	513.71	14,252.05
1965.....	38	26	14,629.38	34	33	676.24	15,305.62
1966.....	39	27	14,948.20	35	35	557.04	15,505.24
1967.....	37	33	14,200.59	36	36	859.41	15,060.00
1968.....	37	33	13,796.80	37	36	1,084.97	14,881.77
1969.....	37	32	15,163.31	35	32	1,230.94	16,394.25

SOURCE: Ex. 823.

Non-pooled revenue consists of detention and cancellation charges, extra remuneration for assisting icebreakers, travelling allowances and travelling expenses reimbursed. This last item is not complete because it does not include the pilots' travelling expenses between Cornwall and Snell lock which are paid by the Department of Transport.

The aggregate non-pooled revenue 1960-1969 (of which each pilot received a different percentage) was as follows:

#### NON-POOLED EARNINGS

Year	Detention	Personal Expenses
1960.....	\$48,190.23	\$15,885.92
1961.....	9,665.87	10,110.10
1962.....	10,708.61	11,592.10
1963.....	10,495.60	9,737.25
1964.....	11,992.37	11,543.90
1965.....	33,099.61	13,672.82
1966.....	34,994.21	15,118.27
1967.....	30,689.49*	15,348.10
1968.....	31,951.49*	14,820.36
1969.....	25,691.70	15,295.89

\*Including icebreaker charges.

SOURCE: Ex. 823.

Because there are no grades, there is little difference from year to year in the aggregate amount each pilot received from the pool and from non-pooled sources (travelling expenses excluded) as is clear from the following table which shows for 1960-1969 the number of pilots whose remuneration fell in the various thousand dollar brackets. Each indicates the thousand dollar bracket in which the average net remuneration per year pilot falls.

#### COMPARATIVE ANALYSIS OF INCOME BRACKETS

"Take Home" Net Income Bracket*	Number of Sharing Pilots								
	1961†	1962†	1963	1964‡	1965	1966	1967	1968	1969
\$16-17,000.....					1	4			31
15-16,000.....					26	26	19	12	2
14-15,000.....				3	4	3	16	22	1
13-14,000.....		5		24				1	1
12-13,000.....		22		1	1		1	1	1
11-12,000.....	26	1	27			1		1	
10-11,000.....	3	3	3		1	1			



"Take Home" Net Income Bracket*	Number of Sharing Pilots								
	1961†	1962†	1963	1964‡	1965	1966	1967	1968	1969
9-10,000.....		1	1	1	1		1		
8- 9,000.....	1				1				
7- 8,000.....				1					
6- 7,000.....						1			
5- 6,000.....									
4- 5,000.....				1					1
3- 4,000.....				1	1				
2- 3,000.....				1		2			
1- 2,000.....	1			3	2	1			
0- 1,000.....		1	1						
TOTAL NUMBER OF SHARING PILOTS.....	31	33	32	36	38	39	37	37	37

\*Before taxes and personal deductions, but after insurance compulsory contributions and group expenses, including share of Corporation expenses, MSG fees and Pilots' Federation dues.

†Detention and Federation dues (including MSG fees) prorated.

‡Detention prorated.

SOURCE: Ex. 823.

The following table shows the average remuneration of the pilots according to the principal meanings given to the term (p. 491) calculated on the aggregate amount of pilotage earnings accruing directly or indirectly to them, on the basis of year pilot. As for the Montreal harbour pilots, the resultant average figures correspond very closely to the actual remuneration

#### AVERAGE REMUNERATION PER YEAR PILOT

Year	Share of Total Revenues Accruing to Pilots*		Share less Contribu- tion to Pension Fund	Share less Corporation Administrative Costs†		Share of Administra- tive Cost Per Year Pilot in %
	Amount	% Increase since 1961		Amount	% Increase since 1961	
1961.....	\$11,781.79	0.0%	Nil	\$11,585.60	0.0%	3.1%
1962.....	13,462.17	14.3	"	13,197.07	13.9	3.1
1963.....	12,092.43	2.6	"	11,724.86	1.2	3.1
1964.....	13,803.07	17.2	"	13,391.59	15.6	3.0
1965.....	14,751.34	25.2	"	14,267.81	23.2	2.6
1966.....	15,289.12	29.8	"	14,741.70	27.2	2.6
1967.....	15,456.78	31.2	"	14,763.93	27.4	2.6
1968.....	16,170.81	37.3	"	15,438.58	33.3	2.7
1969.....	17,011.61	44.4	"	16,457.21	42.0	2.7

\*Including initiation fees but excluding revenue paid to apprentices and transportation dues.

†Including value of free turns except during 1961-1964 (figures not available); vide table p.980.

SOURCE: Ex. 823.

most pilots draw since their share in the pool is based on the full amount of dues earned, and also because most of them received a full, equal share.

#### COMMENTS

It has been emphasized before in the Report that the figures quoted as the pilots' remuneration in various Districts should not be compared without first reducing them to a common denominator. The Cornwall District is no exception. For instance, the travelling expenses paid to the Cornwall pilots do not include the cost of their transportation between Cornwall and Snell lock which is assumed by the Department of Transport and passed on to the ships concerned. On the other hand, since there is no Pension Fund, comparison with Districts where such a Fund exists would have to be prior to the Fund deduction.

As when comparing the actual remuneration received by pilots from their professional Corporation, great caution must be shown because of the substantial differences in pooling rules and accounting practice. For instance, the Cornwall pilots establish each pilot's share before deducting his compulsory contributions to the Guild, the Federation and group insurance. This procedure was doubtless adopted because the premiums for their medical and hospital coverage vary with marital status and number of dependents. In other pooling systems where these deductions are the same for all pilots, the aggregate amount is considered a group expense which is deducted from the pool prior to sharing, a system which is obviously not logical but may have some advantages for income tax purposes.

The Cornwall pilots' main complaint is that they receive less income than the Kingston pilots whose work is very similar (vide pp. 966-8). Their argument would be sound if it were not a fact that, as a result of the special organization of pilotage services in the Great Lakes Basin, the tendency is for the Kingston pilots' remuneration to be too high by Canadian standards because of increases granted following demands by their American colleagues. Therefore, in effect, the parity that is sought is with American pilots in Great Lakes District No. 1. This problem will remain unless the pilotage organization on the Great Lakes is basically altered.

#### 8. FINANCIAL ADMINISTRATION

The Cornwall and Montreal Districts follow a similar procedure for financial administration and both Districts are administered by the same D.O.T. personnel and from the same pilotage offices situated in Montreal (the Montreal District Supervisor is also the Cornwall District Supervisor). Therefore, the description of the financial administration in the Montreal District (pp. 811 and ff.) applies *mutatis mutandis*, except for a few small variations which will be described.

The District Supervisor sends out bills, collects dues and remits them *in toto* (except for pilotage dues charged for the pilots' transportation between Cornwall and Snell lock) to the Cornwall Pilots' Corporation, although the By-law provides for payment to each pilot by the District Supervisor of the dues he has personally earned, and although the dues collected as a result of the compulsory payment system should be paid to the Receiver General of Canada (there is no Pension Fund and District operating expenses are assumed by the Department of Transport). There is no deduction of any sort since there is neither Pilot Fund nor Pension Fund created under Part VI of the Act, no pilot vessel service and no radiotelephone charge. The only pilotage dues not remitted to the Pilots' Corporation are those paid by ships to compensate for transporting pilots between Cornwall and Snell lock. Since this service is provided by D.O.T. through a local taxi firm, they are paid when collected to the Receiver General of Canada (pp. 956-8).

For the cost of the service to the Crown and the maintenance and operation of pilotage offices and pilot stations, vide p. 977.

The District Supervisor renders only one annual report for the two Districts under his authority. This report, in addition to a general section dealing with the joint headquarters organization, contains a separate section for each group of pilots giving, *inter alia*, statistics of their earnings. It contains no information about the cost to the Government of operating the District (these figures are found in the financial reports of the Department of Transport).

The following table shows for the period 1961-1968 the total dues payable for pilotage services rendered by the pilots or on account of the compulsory payment system for each navigation season, including dues charged for transportation between Cornwall and Snell lock.

## GROSS PILOTAGE EARNINGS

Year	GROSS PILOTAGE DUES EARNED		TRANSPORTATION DUES PAYABLE TO:		GROSS PILOTAGE DUES EARNED LESS TRANS- PORTATION DUES
	Aggregate Amount	% Increase since 1961	Pilots	Receiver General of Canada	
1961.....	\$401,321.74	0%		\$19,279.43	\$382,042.31
1962.....	448,713.06	11.8	\$11,609.85	\$ 9,512.60	427,590.61
1963.....	406,525.14	1.3	9,646.65	9,907.63	387,070.86
1964.....	478,592.97	19.3	11,540.80	11,560.40	455,491.77
1965.....	607,451.39	51.4	14,064.22	11,976.00	581,411.17
1966.....	647,681.55	61.4	15,708.14	22,983.90	608,989.51
1967.....	647,681.21	61.4	16,340.58	22,144.20	609,176.43
1968.....	628,631.55	56.6	15,903.98	19,193.00	593,534.57

SOURCE: Ex. 534(b).



## Chapter D

For Recommendations affecting this District, see Section Five.

## Chapter E

# APPENDICES

### APPENDIX A

Shipping Casualties, Accidents and Incidents with a Cornwall Pilot on Board:

- (1) Table—Comparative statistical analysis during the ten-year period 1959-1968 inclusive.
- (2) Summary—Detailed analysis for the years 1964 and 1967.

### APPENDIX B

- (1) Graphs a. May 1964 workload of Cornwall pilot Willie Watier.  
b. September 1964 workload of Cornwall pilot Willie Watier.
- (2) Tables a. Comparative detailed analysis of workload of pilot Willie Watier for the months of May 1964 and September 1964.  
b. Comparative summary of workload of pilot Willie Watier and busiest pilot during busiest and least busy months—1962, 1963 and 1964.

### APPENDIX C

Monthly Trip Assignments by Cornwall Pilots:

- (1) Graphs a. During 1963, 1964 and 1966.  
b. During 1967, 1968 and 1969.
- (2) Table—Aggregate number—1963-1969.

COMPARATIVE STATISTICAL ANALYSIS OF SHIPPING CASUALTIES,  
DURING THE TEN-

Details	1959	1960	1961
<b>A. EVENTS WHILE NAVIGATING</b>			
I. MAJOR CASUALTIES (with or without loss of life)	0	1	0
II. MINOR CASUALTIES (without loss of life).....			
(a) Minor strandings.....	1	0	3
(b) Minor damage to ship.....	0	1	0
	1	1	3
III. ACCIDENTS (without damage to ships).....	0	0	0
IV. INCIDENTS (without any damage whatsoever).....	0	1	0
	1	3	3
<b>B. EVENTS WHILE BERTHING, UNBERTHING, AT ANCHORAGE OR LOCK</b>			
I. MAJOR CASUALTIES (with or without loss of life)	0	0	0
II. MINOR CASUALTIES (without loss of life):			
(a) Minor strandings.....	0	0	0
(b) Minor damage to ship:			
(i) Striking pier or installation.....	0	1	3
(ii) Striking vessel berthing or unberthing.....	0	0	0
(iii) Striking vessel at anchorage or lock.....	3	1	0
(iv) Striking approach wall or fender.....	0	4	6
(v) Striking lock wall or fender.....	0	2	9
(vi) Striking lock gate or gate fender.....	0	1	0
(vii) Striking bridge.....	0	0	0
(viii) Other.....	0	0	0
	3	9	18
III. ACCIDENTS (without damage to ships):			
(a) Damage to pier or installation.....	0	0	0
(b) Damage to buoys.....	0	0	0
(c) Damage to lock:			
(i) Striking approach wall or fender.....	3	1	5
(ii) Striking lock wall or fender.....	7	1	1
(iii) Striking lock gate or gate fender.....	7	3	1
(d) Damage to bridge.....	1	0	0
	18	5	7
IV. INCIDENTS (without any damage whatsoever).....	0	0	0
	21	14	25
<b>GRAND TOTAL.....</b>	<b>22</b>	<b>17</b>	<b>28</b>

SOURCES: Exs. 1451 and 1467.



A (1)

ACCIDENTS AND INCIDENTS WITH A CORNWALL PILOT ON BOARD  
YEAR PERIOD 1959-1968

1962	1963	1964	1965	1966	1967	1968
0	0	0	0	0	0	1
0	2	0	1	0	2	0
0	1	0	0	1	0	0
0	3	0	1	1	2	0
0	0	1	0	0	0	0
3	4	8	6	2	1	0
3	7	9	7	3	3	1
0	0	0	0	0	1	2
0	1	2	0	1	0	4
1	0	0	0	0	1	0
0	0	0	0	0	0	0
1	0	0	2	0	0	0
2	4	8	4	7	4	4
13	1	11	9	11	4	6
0	0	0	0	0	0	0
0	1	0	0	0	0	0
0	1	0	0	1	0	0
17	8	21	15	20	9	14
0	0	0	0	0	0	0
0	0	1	0	0	0	0
0	3	0	1	3	1	0
2	0	1	0	3	2	2
4	5	1	0	0	1	0
1	0	0	0	0	0	0
7	8	3	1	6	4	2
1	0	0	1	2	0	4
25	16	24	17	28	14	22
28	23	33	24	31	17	23

Appendix A(2)(a)

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS  
WITH A CORNWALL PILOT ON BOARD DURING 1964

Nineteen sixty-four had the greatest number of events in the past ten-year period (vide Appendix A(1) p. 989), details as follows:

---

A. EVENTS WHILE NAVIGATING

I. MAJOR CASUALTIES (with or without loss of life):

— nil

II. MINOR CASUALTIES (without loss of life):

— nil

III. ACCIDENTS (without damage to ships):

1. June 10—*Beaverelm* struck buoy in Lake St. Louis during high wind.

IV. INCIDENTS (without any damage whatsoever):

1. January 15—*Middlesex Trader* grounded in Seaway while navigating.
2. April 23—*Hadar* touched bottom in Gray's Reef Passage while navigating; U.S. authorities informed.
3. May 9—*Antiope* grounded below Côte Ste-Catherine lock during wind.
4. May 30—*Irish Pine* grounded in the Seaway while manoeuvring.
5. July 17—*Tautra* struck canal bank near buoy 12B approaching Upper Beauharnois lock downbound; caused by steering gear failure.
6. September 14—*Prins Casimir* grounded in Lake St. Francis due to PILOT ERROR.
7. October 1—*Halifax City* struck bank of Seaway when vessel took a sheer while navigating.
8. October 15—*Middlesex Trader* touched bottom in Lake St. Louis while navigating.

B. EVENTS WHILE BERTHING OR UNBERTHING AT ANCHORAGE OR LOCK

I. MAJOR CASUALTIES (with or without loss of life):

— nil

II. MINOR CASUALTIES (without loss of life):

(a) *Minor strandings*

1. May 3—*Irish Pine* grounded on sand bank when downbound in Lake St. Louis after bow port anchor was weighed.
2. November 1—*World Felicia* grounded on south side of channel when up-bound above Côte Ste-Catherine lock; caused by a mechanical failure in a circuit breaker with subsequent loss of power.

(b) *Minor damage to ship*

- (i) *Striking pier or installation*—Nil.
- (ii) *Striking vessel berthing or unberthing*—Nil.
- (iii) *Striking vessel at anchorage or lock*—Nil.
- (iv) *Striking approach wall or fender*:

1. June 5—*Scottish Trader* struck Beauharnois lock quay due to PILOT ERROR.
2. June 23—*Egle* struck Beauharnois lock quay due to PILOT ERROR.
3. July 10—*Martin Thorf* struck Beauharnois lock quay with stern when leaving.

4. July 14—*Carrigan Head* struck Beauharnois lock quay when manoeuvring.
5. October 21—*Valmas* struck tie-up wall when approaching Côte Ste-Catherine lock upbound, due to crew slow with moorings.
6. October 26—*Rotte* struck Côte Ste-Catherine approach wall when vessel took a sheer while manoeuvring.
7. November 16—*Bolivia Maru* struck quay in Seaway when manoeuvring during wind.
8. November 19—*Grand Haven* struck small tie-up wall in Seaway when manoeuvring; caused by current.

(v) *Striking lock wall or fender:*

1. June 17—*Glynafon* struck Beauharnois lock with propeller when manoeuvring during wind.
2. July 30—*Polydora* struck Beauharnois lock wall when manoeuvring during wind.
3. August 9—*Continental Pioneer* struck Seaway lock wall when manoeuvring during wind.
4. August 19—*Exiria* landed heavily on Lower Beauharnois lock wall after being pushed off wall while being raised in lock.
5. August 26—*Vaxholm* struck Upper Beauharnois lock wall; caused by engine failure and mooring lines parting.
6. September 9—*Angeliki L.* struck Lower Beauharnois lock wall during filling period while upbound.
7. September 22—*Waldemar Peter* struck Upper Beauharnois lock wall while upbound during filling; caused by slack winch line.
8. October 1—*Agios Nicolaos* upbound being raised in lower Beauharnois lock struck wall; caused by insufficient fendering to protect protruding accommodation ladder platform and life-boat davit's wheel.
9. October 28—*Holmside* struck Lower Beauharnois lock wall during filling; caused by water turbulence.
10. October 31—*Baltic Sea* upbound struck Lower Beauharnois lock wall during filling.
11. November 19—*Orient Merchant* upbound struck St. Lambert lock fender which was fully raised; caused by wind.

III. ACCIDENTS (without damage to ships):

(a) *Damage to pier or installation*—Nil

(b) *Damage to buoys*

1. May 9—*Evvia* drifted and struck buoy in Seaway; caused by engine trouble during wind.

(c) *Damage to lock*

(i) *Striking approach wall or fender*—Nil.

(ii) *Striking lock wall or fender:*

1. June 10—*Alejandro Zubizarreta* downbound in Upper Beauharnois lock ripped off two rubber fenders.

(iii) *Striking lock gate or gate fender:*

1. August 14—*Alcoa Marketer* struck No. 3 guard railing fender boom metal post on south side when leaving St. Lambert lock upbound.

IV. INCIDENTS (without any damage whatsoever):

— nil



Appendix A(2)(b)

SHIPPING CASUALTIES, ACCIDENTS AND INCIDENTS  
WITH A CORNWALL PILOT ON BOARD DURING 1967

Nineteen sixty-seven had the least number of events in the past ten-year period (vide Appendix A(1) p. 989), details as follows:

---

A. EVENTS WHILE NAVIGATING

I. MAJOR CASUALTIES (with or without loss of life):

—nil.

II. MINOR CASUALTIES (without loss of life):

1. June 23—*Irene* grounded at Pointe Citrouille during fog.
2. August 28—*Solny* grounded near St. Regis during fog; investigated by USCG.

III. ACCIDENTS (without damage to ships):

—nil.

IV. INCIDENTS (without any damage whatsoever):

1. July 2—*Penquer* grounded at St. Regis Ranges during rain squall and high wind with light ship.

B. EVENTS WHILE BERTHING OR UNBERTHING AT ANCHORAGE OR LOCK

I. MAJOR CASUALTIES (with or without loss of life):

1. November 12—*Thorscarrier's* propeller struck tug *Flo Mac* which sank; cause; moorings slack and poor seamanship by those on board *Thorscarrier* (pilot on board *Thorscarrier* but not on board *Flo Mac*).

II. MINOR CASUALTIES (without loss of life):

—nil.

(a) *Minor strandings*—Nil.

(b) *Minor damage to ship*

(i) *Striking pier or installation:*

1. July 12—*Thorscarrier* struck quay while unberthing at Cornwall harbour (Master handling ship).

(ii) *Striking vessel berthing or unberthing*—Nil.

(iii) *Striking vessel at anchorage or lock*—Nil.

(iv) *Striking approach wall or fender:*

1. April 17—*Beaverash* struck upper tie-up wall above Beauharnois lock; caused by steering gear breakdown.
2. April 29—*Arrow* struck tie-up wall at Snell lock when vessel took a sheer.
3. June 20—*Arrow* struck approach wall at Upper Beauharnois lock when manoeuvring.
4. November 26—*Nopal Lake* struck lay-by wall at Beauharnois lock when manoeuvring.

(v) *Striking lock wall or fender:*

1. May 17—*Yildun* struck lock wall at Lower Beauharnois lock when manoeuvring.
2. July 3—*South American* struck lock wall at St. Lambert during heavy wind squall.

3. September 1—*Beatrice Victory* struck lock wall leaving Lower Beauharnois lock during wind; caused by human error (sic).
4. November 4—*Stanvislavskiy* struck lock wall at Beauharnois lock during wind.

III. ACCIDENTS (without damage to ships):

- (a) *Damage to pier or installation*—Nil.
- (b) *Damage to buoys*—Nil.
- (c) *Damage to lock*

(i) *Striking approach wall or fender:*

1. June 13—*Paul Lorenz-Russ* struck tie-up wall at Lower Beauharnois lock when manoeuvring.

(ii) *Striking lock wall or fender:*

1. April 17—*Finnberg* struck wall of Lower Beauharnois lock; caused by slow engine movement.
2. July 22—*Texaco Brasil* struck wall of Snell lock; caused by current.

(iii) *Striking lock gate or gate fender:*

1. June 4—*Avenir* struck Snell lock gates; caused by engine failure.

IV. INCIDENTS (without any damage whatsoever):

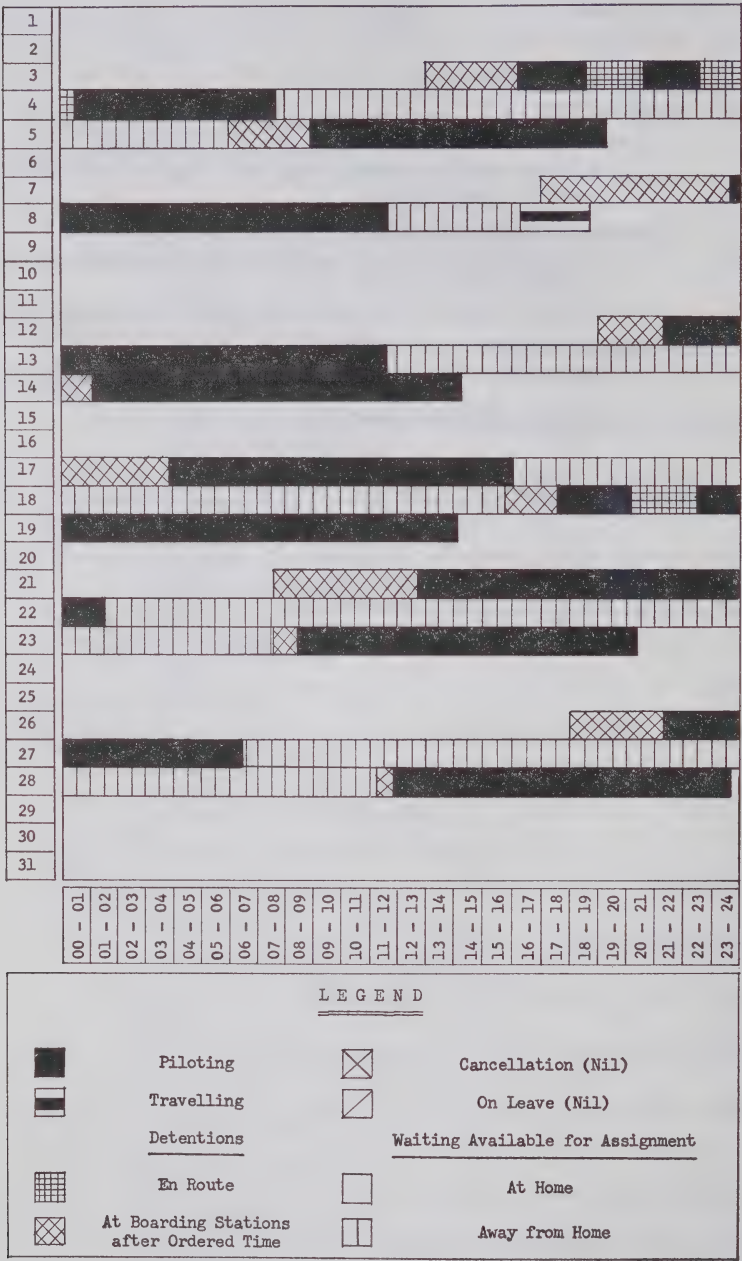
—nil

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SOURCES: Exs. 1451 and 1467.

Appendix B(1)(a)

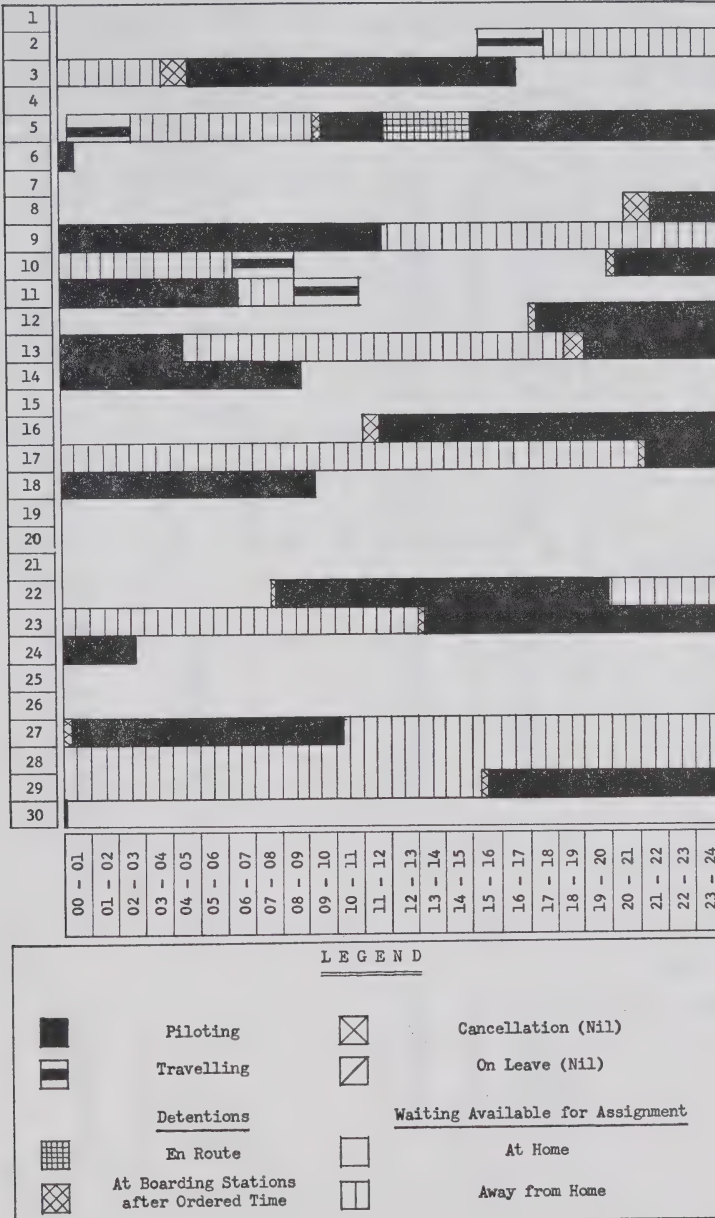
MAY 1964 WORKLOAD OF PILOT WILLIE WATIER





Appendix B(1)(b)

SEPTEMBER 1964 WORKLOAD OF PILOT WILLIE WATIER



Appendix B(2)(a)

COMPARATIVE WORKLOAD ANALYSIS OF CORNWALL PILOT  
WILLIE WATIER

Details	May 1964				September 1964					
	Dates	Aggregate		Total		Dates	Aggregate		Total	
		hrs.	mins.	hrs.	mins.		hrs.	mins.	hrs.	mins.
<i>Trips</i> .....	3-4	11	40			3	11	55		
	5	10	25			5-6	11	50		
	7-8	12	00			8-9	14	20		
	12-13	14	20			10-11	10	15		
	14	13	10			12-13	11	10		
	17	12	05			13-14	13	45		
	18-19	18	20			16	12	15		
	21-22	12	50			17-18	12	00		
	23	12	00			22	12	10		
	26-27	9	10			23-24	13	20		
	28	11	45			27	9	55		
						29-30	8	40		
<i>Detentions</i>				137	45				141	35
En route.....	3	2	00			5	3	05		
	3-4	1	50							
	18	2	15							
				6	05				3	05
At boarding stations	3	3	10			3	1	00		
after ordered time.....	5	2	55			5		20		
	7	6	40			8		55		
	12	2	15			10		15		
	14	1	05			12		15		
	17	3	55			13		45		
	18	1	45			16		40		
	21	5	10			17		15		
	23		50			22		05		
	26	3	15			23		15		
	28		35			26-27		30		
						29		10		
				31	35				5	25
<i>Land Travel</i> .....	8	2	28			2	2	18		
						5	2	16		
						10	2	16		
						11	2	28		
				2	28				9	18
<i>Waiting for Assign- ment</i>										
At outports.....	4-5	22	20			2-3	10	07		
	8	4	35			5	6	44		
	13	12	25			9-10	18	29		
	17-18	23	45			11	2	05		
	22-23	30	00			13	13	50		
	27-28	28	50			16-17	21	05		
						22-23	17	05		
						27-29	53	05		
						121	55			

Details	May 1964					September 1964				
	Dates	Aggregate		Total		Dates	Aggregate		Total	
		hrs.	mins.	hrs.	mins.		hrs.	mins.	hrs.	mins.
At home.....	1-3	61	00			1-2	39	20		
	5-7	45	40			3-5	31	35		
	8-12	96	17			6-8	68	00		
	14-16	57	45			10	11	25		
	19-21	41	25			11-12	30	02		
	23-26	69	40			14-16	50	15		
	28-31	72	25			18-22	94	25		
						24-26	69	10		
				444	12	30	23	55	418	07
Grand Total.....				744	00				720	00

SOURCE: Ex. 1417.



## Appendix B(2)(b)

COMPARATIVE WORKLOAD SUMMARY OF CORNWALL PILOT  
WILLIE WATIER AND BUSIEST CORNWALL PILOT DURING  
BUSIEST AND LEAST BUSY MONTHS

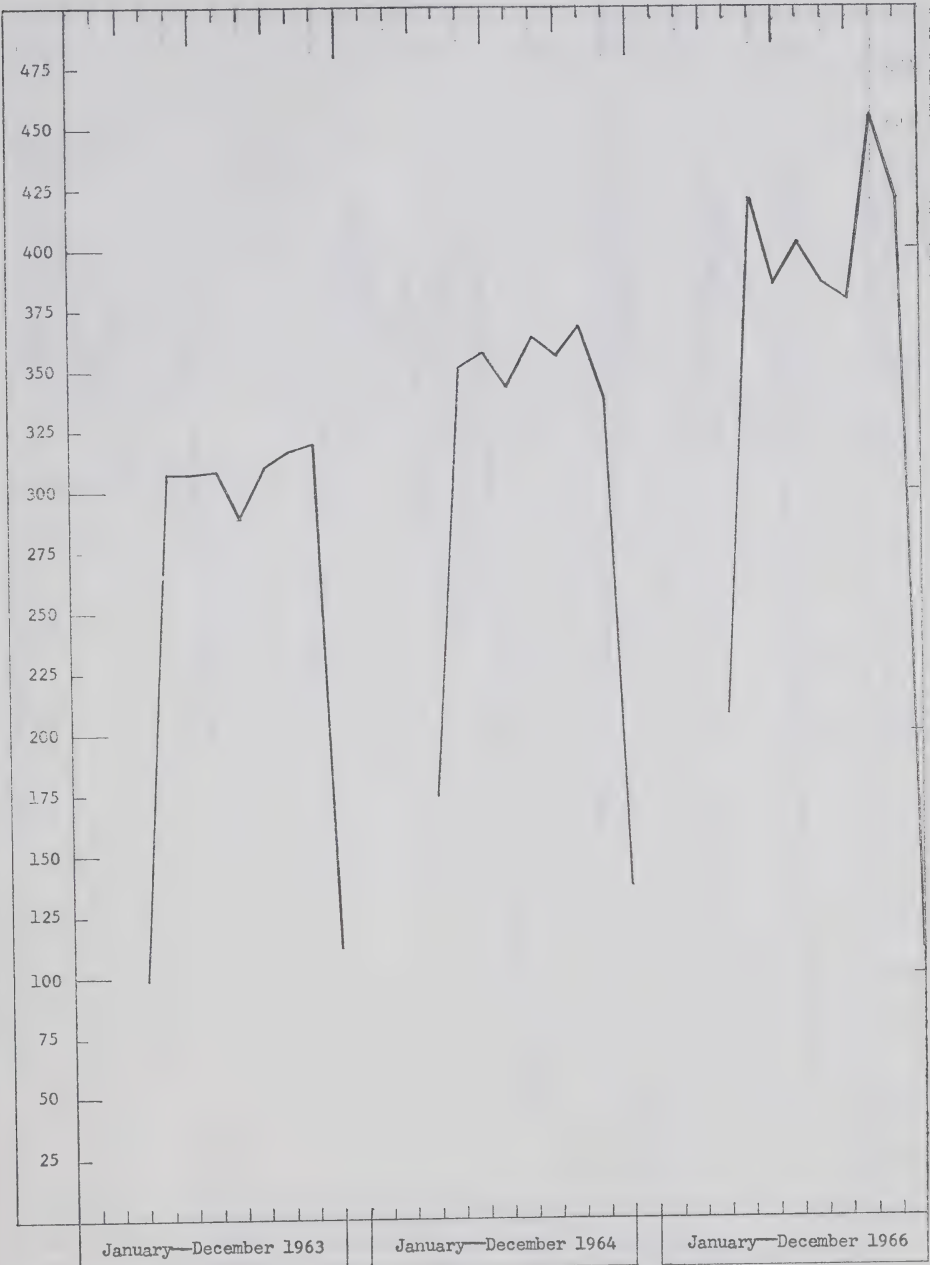
Details	Busiest Pilot—Busiest Month				Willie Watier May 1964	Busiest Pilot—Least Busy Month				Willie Watier September 1964
	Wilbrod Marion October 1962	Paul Pelletier November 1963	Lucien Arcand November 1964	turns hrs. mins.		Léopold Bernier July 1962	Gaston Carignan August 1963	Wilbrod Marion September 1964	turns hrs. mins.	
<i>Trips</i>	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.	turns hrs. mins.
Upbound.....	8 109 12*	4 45 54	3 43 06	6 72 05	5 65 12	6 73 36	6 82 54	6 70 05	6 70 05	6 70 05
Downbound.....	5 64 54	7 97 30	7 106 06	5 65 40	8 84 06	6 63 54	8 90 54	6 71 30	6 71 30	6 71 30
Total trips.....	13 174 06	11 143 24	10 149 12	11 137 45	13 149 18	12 137 30	14 173 48	12 141 35	12 141 35	12 141 35
<i>Movages</i> .....	1 n/av.†	0 —	0 —	0 —	1 2 24	0 —	0 —	0 —	0 —	0 —
<i>Cancellations</i> .....	0 —	0 —	0 —	0 —	0 —	0 —	0 —	0 —	0 —	0 —
<i>Detentions</i>										
En route.....	1 6 00	0 —	0 —	3 6 05	0 —	0 —	0 —	1 3 05	1 3 05	1 3 05
At boarding stations										
Upbound.....	4 12 06	1 6 18	1 10 06	6 24 25	0 —	1 7 30	0 —	6 2 40	6 2 40	6 2 40
Downbound.....	1 3 06	2 18 12	0 —	5 7 10	0 —	1 2 42	0 —	6 2 45	6 2 45	6 2 45
Total detentions.....	6 21 12	3 24 30	1 10 06	14 37 40	0 —	2 10 12	0 —	13 8 30	13 8 30	13 8 30
<i>Land Travel</i> .....	3 n/av.‡	3 n/av.‡	3 n/av.‡	1 2 28	4 n/av.‡	0 —	1 n/av.‡	4 9 18	4 9 18	4 9 18
<i>Waiting, available for assignment</i>										
Upbound.....	9 387 36§	8 327 48§	7 369 30§	7 444 12	10 472 42§	6 438 12	7 394 00§	9 418 07	9 418 07	9 418 07
Downbound.....	5 161 06	5 224 18	7 191 12	6 121 55	8 119 36	7 158 06	8 152 12	8 142 30	8 142 30	8 142 30
Total waiting.....	14 548 42	13 552 06	14 560 42	13 566 07	18 592 18	13 596 18	15 546 12	17 560 37	17 560 37	17 560 37
Grand Total.....	744	720	720	744	744	744	720	720	720	720

\*Including movage; †included in trips upbound; ‡included in waiting upbound; § including land travel between boarding stations.

Sources: Exs. 828 and 1417.

Appendix C(1)(a)

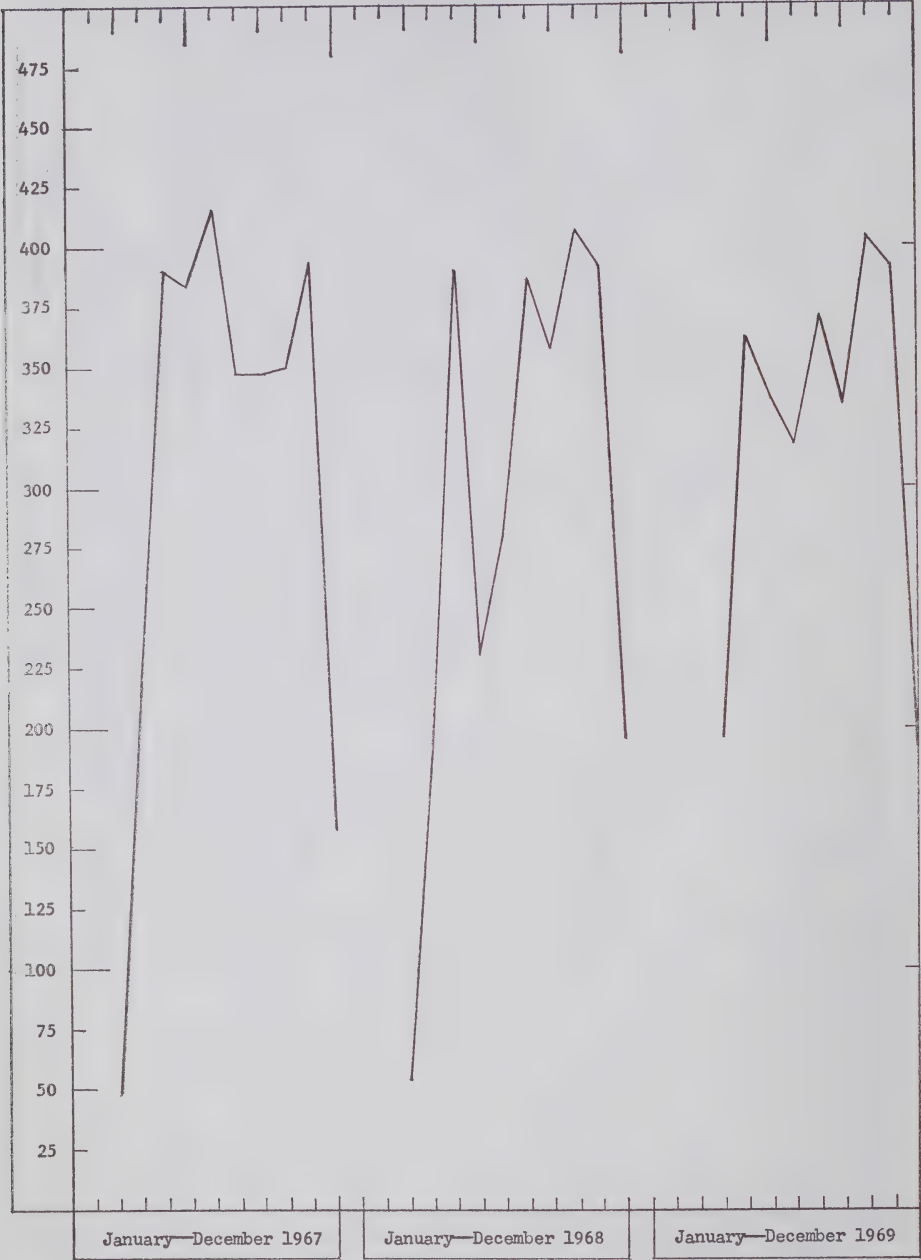
MONTHLY TRIP ASSIGNMENTS BY CORNWALL PILOTS DURING  
1963, 1964 AND 1966\*



SOURCE: Appendix C(2)—\*1965 not available.

Appendix C(1)(b)

MONTHLY TRIP ASSIGNMENTS BY CORNWALL PILOTS DURING  
1967, 1968 AND 1969



SOURCE: Appendix C(2).



Appendix C(2)  
CORNWALL PILOTS—AGGREGATE MONTHLY TRIP  
ASSIGNMENTS

Month	1963	1964	1965	1966	1967	1968	1969
January.....	—	—	n/av.	—	—	—	—
February.....	—	—	“	—	—	—	—
March.....	—	—	“	—	48	54	—
April.....	99	174	“	207	220	193	195
May.....	308	351	“	420	390	390	362
June.....	308	357	“	385	384	230	337
July.....	309	343	“	402	416	280	318
August.....	289	364	“	385	348	386	370
September.....	311	356	“	379	348	357	334
October.....	317	368	“	454	350	406	403
November.....	320	337	“	420	393	391	391
December.....	111	136	“	110	157	195	192
	2,372	2,786	“	3,162	3,054	2,882	2,902

SOURCE: Ex. 1540(i).



## Section Five

### RECOMMENDATIONS





# RECOMMENDATIONS

## RECOMMENDATIONS AFFECTING THE PILOTAGE DISTRICTS OF QUEBEC, MONTREAL AND CORNWALL, AND LOWER ST. LAWRENCE RIVER PORTS

### PREAMBLE

This section contains the Commission's recommendations on subject-matters of basic importance regarding one or more Districts or regions covered in Part IV of this Report. Following the practice adopted in the other Parts, many other proposals in the form of comments, remarks and conclusions are contained in the text but have not been listed here to avoid repetition and also because they should be read in their context for better comprehension. *Inter alia*, careful attention should be paid to the remarks and comments on pp. 413 and ff. suggesting solutions for the problems of safety resulting from the lack of essential information regarding a ship and her position when a pilot boards in transit, and the absence of facilities to obtain such information before he embarks.

### RECOMMENDATION No. 1

**The Present Pilotage Districts of Quebec, Montreal and Cornwall to Be Reduced to Two Districts with a Common Boundary at Trois-Rivières and Headquarters in Quebec and Montreal Respectively; Pilotage Services between Les Escoumins and Cornwall (Snell Lock) to Continue to Be Provided on a Sector Basis by the Existing Groups of Pilots**

The limits of a Pilotage District or the territorial competency of a group of pilots should not be related to the boundaries of other formations established for reasons unconnected with pilotage, but should be defined solely to ensure the maximum efficiency and reliability of the service.

The basic determining factor is the need for uninterrupted service from Les Escoumins to Cornwall (Snell lock) and from there up to Lake Ontario. The very length of the waterway and its many navigational difficulties which necessitate a high standard of *expertise* make it physically impossible for the whole trip to be completed by one pilot. Hence, the legal territorial competency of the pilots must be limited to only part of the transit (Part I, p. 477).

Since the present distribution of pilotage services on the St. Lawrence between four groups of river pilots has proved necessary and efficient, this feature should be retained.

Although for reasons already discussed it was necessary to divide the area between Les Escoumins and Cornwall (Snell lock) into four sectors, each with its own group of pilots, it should not be forgotten that pilotage must be continuous and uninterrupted. It follows that liaison problems can be effectively solved only by proper organization. The primary requirement is administrative direction and control of pilotage throughout the area as well as unity of authority if feasible, or, if not, a minimum number of separate Pilotage Authorities which would be required to work together to achieve the required continuity between Districts.

Normally, each distinct group of pilots should be provided with their own Pilotage Authority *in situ* which is thoroughly conversant with local problems—standards of pilots' qualifications, operational requirements and the nature, extent and characteristics of the demand for pilotage—in order to discharge its numerous and demanding responsibilities promptly and effectively. On the other hand, over-organization must be avoided, especially when a favourable geographical location permits an Authority to take responsibility for more than one group of pilots, e.g., in contiguous sectors, thus, *inter alia*, facilitating the provision of uninterrupted service.

The foregoing can be achieved by dividing the River from Les Escoumins to Cornwall (Snell lock) into two Pilotage Districts, with the harbour of Trois-Rivières as common territory. The headquarters of the Pilotage Authority of each District should be in Quebec and Montreal respectively to give all groups of pilots direct access to their Authority.

Except for including the Quebec/Trois-Rivières sector in the Quebec District, this proposal corresponds to the existing practice which experience has proved satisfactory.

The Cornwall and Montreal Pilotage Districts have been separate Districts in name only. The complete administration of both Districts has not only been carried out in Montreal, but from the same headquarters and with the same staff. The Montreal District Supervisor has also fulfilled the function of Cornwall District Supervisor and the pilots of both Districts have (realistically) been despatched from the same office. An obvious benefit has been the continuity of service at such vital points as St. Lambert lock—the *de facto* division of the present Montreal and Cornwall Districts.

Moreover, following the administrative division of the Montreal District, the pilots of the Trois-Rivières/Quebec sector were placed in the unwarranted position of being physically separated from their Pilotage Authority and its local administration. Conversely, the District Supervisor found himself incapable of effecting any control and surveillance over this group of



pilots except by delegation, mainly to the Quebec District Supervisor with whom the Trois-Rivières/Quebec pilots are in direct contact but who lacks legal authority to act in this capacity. Therefore, it is logical and necessary in the interest of efficiency that the Trois-Rivières/Quebec sector be detached from the Montreal District and made part of the proposed Quebec Pilotage District.

The Pilotage Authority of the proposed Montreal Pilotage District would be required to exercise its demanding functions only over pilots with whom it has direct contact, i.e., the river pilots of the Montreal upper sector, the Montreal harbour pilots and the Cornwall pilots.

Continuity of service should be assured through appropriate legislation which would, *inter alia*, establish joint areas between sectors for purposes of boarding and changing pilots as follows:

- (a) the whole of the harbour of Quebec to remain within the pilot limits of both groups of Quebec pilots, to be used by the pilots of the upper sector (Quebec/Trois-Rivières) solely for the purpose of commencing or terminating a river trip either at a berth or by a pilot vessel in the stream;
- (b) the harbour of Trois-Rivières also to remain in the joint territory of the pilots of the Quebec/Trois-Rivières sector and the Trois-Rivières/Montreal sector, the latter to use the joint area only for the purpose of commencing or terminating a river trip, either at a wharf or through the pilot vessel service at Pointe-des-Ormes;
- (c) St. Lambert lock and its downstream wait wall to be made the joint territory of the Trois-Rivières/Montreal river pilots, the harbour pilots and the Cornwall pilots, with the Montreal river pilots and the harbour pilots boarding in the lock but disembarking there only if the ship is not obliged to tie up at the downstream wait wall; manoeuvring ships along the wait wall to be the exclusive responsibility of the Cornwall pilots since this is part of their *expertise*;
- (d) Snell lock and its downstream wait wall to be the joint territory of the pilots of the Montreal District upper sector (Cornwall pilots) and the Great Lakes Basin pilotage organization, the Cornwall pilots bringing ships into the lock only if they do not have to tie up at the downstream wait wall, but in all cases boarding within the lock; moving vessels along the downstream wait wall into the lock to be the responsibility of the Great Lakes Basin pilots serving in the Cornwall/Kingston sector (vide Rec. No. 3).

The existence of a separate group of pilots to effect movages in the harbour of Montreal is justified by service requirements and should be retained.

RECOMMENDATION No. 2

**Appropriate Steps to Be Taken to Validate the Present Seaward Limit (Les Escoumins) of the Pilotage District of Quebec, and Also, as an Interim Measure, the Present Western Limit (St. Lambert Lock) of the Pilotage District of Montreal**

The exact definition of the limits of a Pilotage District is an essential requirement in pilotage legislation because the limits indicate where rights, obligations and jurisdiction begin, exist or terminate. Sec. 361 C.S.A. requires a pilot to remain with a ship until she passes the District limit or reaches her destination within the District. There can be no District limits except those legally defined. Therefore, under the present organization, the pilots violate the law by embarking and disembarking at Les Escoumins, and by demanding and receiving full tariff for incomplete service. The Pilotage Authority acts illegally when it tries to prevent pilots from, or punish them for, piloting beyond Les Escoumins, although not past Father Point, without its permission (pp. 119 and ff.).

The Pilotage Authority is remiss in the discharge of its duties when it condones the Quebec pilots' failure to provide pilotage services in the area from Les Escoumins to Father Point, and port pilotage as unofficially provided in the ports situated in that area, e.g., Rimouski and Forestville, by unlicensed pilots (Section Two, p. 528).

If pilots are unavailable, thus preventing the Authority from providing them at the seaward limit, this would, under the present statutory legislation, authorize the employment of unlicensed pilots (sec. 354 C.S.A. and Part I, pp. 207 and ff.) and render the compulsory payment system (assuming that it is legally in force) inapplicable (sec. 345 C.S.A. and Part I, pp. 230 and ff.)

The move of the boarding area from Father Point to Les Escoumins was warranted from the service point of view, but the *de facto* situation thus created should be regularized without delay.

Such a situation will not be likely to re-occur if, as recommended by the Commission, the proposed new Pilotage Act provides that fixing and amending District limits is to be effected by the Central Authority through Pilotage Orders (Part I, Gen. Rec. No. 17, p. 506). However, the question should not be left in abeyance until a new Act is passed—immediate steps should be taken to amend existing legislation to regularize the practice, even if this means amending sec. 322 C.S.A. as an interim measure. Nevertheless, as demonstrated on p. 9, it is considered that this amendment could be legally effected by the simple device of an order of the Governor in Council issued pursuant to the last part of sec. 324.

The similar situation that exists with regard to the western limit of the present Montreal District (p. 627) should also be corrected immediately by the same process pending the adoption of a new Pilotage Act and the recommended reorganization of the Districts.

RECOMMENDATION No. 3

**Appropriate Steps to Be Taken to Extend Westward to  
Snell Lock the Present Limit of the Pilotage District of  
Cornwall (or of the Proposed District of Montreal)**

Unless in practice it is impossible to do otherwise, the limits of a Pilotage District should coincide with the natural boundaries of the area where pilotage services are provided, i.e., those warranted solely by consideration of the provision of adequate, efficient services. Artificial limits will not meet service requirements and may well prove a continuing source of legal problems.

The Great Lakes/St. Lawrence waterway is a continuous water route wherein, pursuant to ancient international treaties and customs, ships of all nations have the right or privilege to navigate unhampered, even if the channel west of St. Regis runs through Canadian and United States waters. Since pilotage is a service to shipping, its organization should not be governed by considerations of territorial waters, and any control problems arising because of their existence should be resolved first.

Because these basic requirements were not given full legal recognition, the Cornwall Pilotage Authority has for years found itself powerless to impose the necessary organization and procedure, and for lack of legal power has been subjected to undue pressure and forced into a series of decisions, reversals and compromises in order to have its pilots provide services which, in practice if not in law, met the requirements (vide p. 621 and p. 899).

The administrative arrangements in force since 1966, following a provision that was added to the Memorandum of Arrangements between Canada and the United States regarding pilotage in the Great Lakes (vide p. 902), constitute only a makeshift solution which still fails to give proper recognition to the basic requirements, and the ensuing position still leaves much to be desired on account of the duality of authorities over the Cornwall pilots and the continuing inability of the Cornwall Pilotage Authority to exercise full legislative and administrative controls over pilotage that must be performed by its pilots between St. Regis and Snell lock.

It is considered that the Cornwall pilots should come under a single Pilotage Authority with full jurisdiction over the complete length of the pilotage territory between St. Lambert and Snell locks, and with limited jurisdiction over the joint boarding areas that have to be established at each end.



This should be achieved by an agreement between Canada and the United States of America which recognizes the exclusive jurisdiction of Canada over all matters concerning pilotage, including the right and power to investigate shipping casualties involving pilots in that sector of the St. Lawrence River between the Canadian-United States boundary near St. Regis and Snell lock, as if these waters were Canadian waters for pilotage purposes (and not "designated waters" as at present under Canadian and United States Great Lakes pilotage legislation). The western limit of the Cornwall Pilotage District (or of the new Montreal Pilotage District as proposed) could then be extended westward to Snell lock and a joint area formally established where Great Lakes District One or Cornwall and Montreal pilots could board and change over.

#### RECOMMENDATION No. 4

**Pilotage in the Sector between Les Escoumins and Quebec,  
Including the Saguenay, to Be Classified a Public Service;  
Pilotage in the Other Sectors between Quebec and Cornwall  
(Snell Lock) to Be Classified an Essential Public Service**

*Les Escoumins-Quebec Sector*

Pilotage in the confined waters of the St. Lawrence River between Red Islet and Quebec should be made available to shipping in the public interest but should not be made compulsory except in very unusual cases. Hence, it should be classified a public service. The same applies to the Saguenay River.

The navigational hazards are not such that they can not be effectively met by Masters unfamiliar with the area, provided they wait for favourable tides and weather conditions, and any degree of familiarization will reduce delays. The pilots themselves helped to establish this point during their eight-day strike in early April 1962 when most vessels proceeded without pilots, despite the fact that the buoys were not yet in place, and made fast, safe transits. Most vessels were delayed only when they met adverse weather conditions (pp. 207-208). Navigation is now further facilitated by modern navigational instruments, electronic communications and the improved manoeuvrability of newer ships.

Despite the availability of detailed publications (e.g., the St. Lawrence Pilot and Notices to Mariners), nautical charts and a complete, modern network of aids and information services on all waters involving safety, the natural hazards and difficulties created by tides, currents and adverse weather conditions necessitate the availability of competent pilots to ensure safe, speedy transits. Many factors must be considered and the risk of error is

very great. Except when tide and weather are favourable, only a thoroughly experienced mariner can proceed safely past the entrance to the Saguenay River, through Coudres Passage, around Lauzon Bend and berth in the eastern sector of Quebec harbour. The advantage of having a pilot is that he has expert knowledge of all these factors, perfected and maintained with constant practice based on frequent pilotage assignments and the combined experience of his colleagues.

For the efficient operation of the National Harbours Board ports of Quebec and Chicoutimi and the D.O.T. port of Ha Ha Bay, and because the Les Escoumins-Quebec sector contains the first stretch of confined, difficult waters of the St. Lawrence-Great Lakes waterway, it is in the national interest that an efficient pilotage service be made available. However, the requirement is not such that pilotage should be made compulsory except in very special cases, e.g., highly dangerous cargoes or ships of exceptional dimensions, which could well be covered by special Pilotage Orders if the system proposed in Gen. Rec. No. 22 (Part I, pp. 532 and 533) is implemented.

According to the criteria established in General Recommendations Nos. 17 and 22, pilotage in this sector should not be classified an essential public service, since a maritime casualty is not likely to disrupt navigation seriously to the marked disadvantage of the national interest, nor does the Canadian economy require that vessels be forced to make speedy transits and movements. In recent years, many serious marine casualties have occurred—ironically most of them with a pilot on board because very few ships dispense with the services of a pilot—but on no occasion so far has any District channel been completely blocked as a result. The most vulnerable area is the St. Fulgence Channel but the chance of serious casualty is quite remote because navigation there encounters few serious difficulties. This view is borne out by the records. On the St. Lawrence River, the only two vulnerable areas are near Cape Gribane and in the North Traverse. Here again and for the same reason, the chance of the channel being blocked is quite remote but, even if it were completely blocked, this would mean the disruption of only part of the traffic since vessels with a draught of up to 30 feet can be accommodated at high water through the South Channel, and even through the Middle Channel.

*Quebec-Trois-Rivières, and Trois-Rivières-  
St. Lambert Lock Sectors*

Navigational difficulties in these two sectors (pp. 629-32) and the constant possibility of the dredged channel which extends over most of their length being completely blocked for a considerable period of time, even by a mere stranding, require that pilotage be classified an essential public service.

Despite the availability of detailed information about the physical features of the channel and the action of currents, counter-currents and tides, local knowledge and actual experience in the navigation of these waters are required to assure a safe transit, even if time is taken and favourable weather conditions are awaited. Under these circumstances, navigation in the relatively narrow dredged channel with its numerous curves and frequent traffic requires navigators to pay constant attention and take immediate decisions which permit no time for consultation or study.

By contrast with the situation in the sector below Quebec, there is no alternative route if the channel were blocked following a shipping casualty—by no means a remote possibility in view of the length and size of modern ships and the width of the channel—and, if this occurred at any time during the regular navigation season, there would be very serious consequences for the national economy because all traffic coming from, or bound to, the Seaway would be halted.

#### *St. Lambert Lock-Snell Lock Sector*

Although the navigational difficulties are less in this sector than between Quebec and Montreal, a high degree of skill is required of navigators to meet or overtake other vessels in the confined waters of canals and to manoeuvre without outside assistance in the close quarters of locks and their approaches (pp. 903 and ff.) The Seaway is extremely vulnerable in that the locks are single, not twinned, and the channels are narrow. A shipping casualty in a channel is most likely to interrupt traffic and any false manoeuvre while negotiating a lock may result in its closure for an extended period. In the interest of the national economy every possible step must be taken to avoid such a disaster.

Furthermore, it is essential for the efficiency of Seaway operations that ships lock through speedily and safely. This demands of pilots and ships' officers a high standard of experience and skill. When the Seaway operates at peak capacity, as is often the case, a delay in the locks by one ship results in a similar delay for all ships waiting their turn and, hence, the aggregate time lost by shipping is considerable.

#### RECOMMENDATION No. 5

**Pilotage in the Lower St. Lawrence and Gulf Ports to Be Classified a Private Service; Persons Performing Pilotage or Willing to Pilot in This Area Who Meet the Qualifications to Be Entitled to a Certificate of Approval from the Duly Designated Pilotage Authority**

At present, the imposition of any form of administrative public control is not warranted at any of the ports and harbours in the area. At the main



ports, a pilotage service is required neither in the public interest nor to enhance safety of navigation.

The so-called pilotage services now being provided at some of these ports should not be confused with port pilotage because they are not basically concerned with navigation in and out of, or within, harbours but with berthing, unberthing and movages. Therefore, such services do not compare with those normally provided at such ports as Saint John (N.B.), Halifax, Sydney and St. John's (Nfld.), where the main consideration is safe navigation in and out of harbour and berthing is merely accessory. Hence, although technically speaking those providing these services are pilots because they meet the statutory definition (Part I, pp. 22 and ff.), it was found advisable to call them *docking Masters* or, preferably, *berthing Masters*.

The pilotage services provided are only indirectly services to shipping. Their main purpose is to ensure maximum efficiency and productivity in the operations of certain companies which own berths and loading equipment. Companies which do not have this problem because their berthing and loading facilities are adequate to meet their particular export needs without having to worry about idle time due to ships' movements, e.g., Gulf Paper Company, Canadian British Aluminum Company and Quebec Titanium Corporation, have not made the employment of a pilot mandatory nor have they organized a pilotage service.

At the main ports in the area—Port Cartier included—port pilotage is unnecessary because navigational conditions are ideal and no local experience is required. What little information is needed is clearly indicated on the charts and in the sailing directions, and Masters can enter any of these ports and berth at any wharf with ease and safety.

There is no need to change a system which works well, unless public interest is involved, but this is not the case here. Highly qualified, experienced docking Masters are provided by responsible companies at reasonable cost to manoeuvre ships, and the present procedure could not be improved by the creation of a Pilotage District. Hence, until the situation in these ports changes materially, the *status quo* should be retained.

Despite the waiver clauses in the contract the companies concerned make with the vessels which use their berthing facilities, they always retain full responsibility for the professional, moral and even physical fitness of the pilots whose services they provide. It is an implied warranty of the contract that the pilot they supply or impose possesses the necessary qualifications.

If the Commission's General Recommendation No. 10 (Part I, pp. 483-4) is implemented, these companies would be wise to offset part of this responsibility by having the duly designated Pilotage Authority appraise the qualifications of the persons selected for pilotage duty and issue them a

certificate of approval. The same privilege should be extended to any one who may wish to act as pilot in these ports.

If the situation in any port in the area changes and it becomes necessary for the safety of navigation, or at least advantageous for shipping, that some form of public control be exercised over the local pilotage service, the only solution in the case of an isolated port would be to appoint the Port Authority as Pilotage Authority. This area is too large and the possible need to organize a pilotage service too slight to establish a Pilotage District of the merger type. Furthermore, these ports, except possibly those that lie just eastward of Les Escoumins, such as Forestville and Rimouski, are too remote for attachment for licensing purposes to the District of Quebec because the Quebec Pilotage Authority would not be in a position to discharge its surveillance responsibilities effectively.

Re the Commission's view on the Federation of the St. Lawrence River Pilots' proposal that all pilots be licensed and, hence, that all Canada's navigable waters be included in Pilotage Districts, reference is made to the Commission's General Recommendations Nos. 9 and 10 (Part I, pp. 480 and ff.).

#### RECOMMENDATION No. 6

**Berthing and Unberthing Vessels in the Harbour of Quebec to  
Remain Part of the Pilotage Trip but the Rate Structure to  
Be Amended to Provide a Separate Berthing and Unberthing  
Charge**

The principle that berthing and unberthing a vessel is part of a pilotage trip should not be departed from except as a matter of safety, or to improve the pilots' working conditions, provided neither shipping nor the public is unduly inconvenienced thereby. Insistence on the employment of a berthing pilot requires basic organizational modifications which entail serious disadvantages. These are acceptable only if they are offset by substantial advantages which, under the present circumstances, do not exist in the harbour of Quebec. The berthing pilots proposed for Quebec should not be confused with the Montreal harbour pilots whose function is limited to movages and who never relieve river pilots to berth or unberth.

The proposal is not permissible under the present statutory legislation, i.e., C.S.A. sec. 361 and subsec. 329(f) (vii). Sec. 361 establishes the contractual obligation of a licensed pilot who has undertaken to pilot a ship inward or outward obliging him to remain on board until the voyage is concluded inside the District, either when the ship reaches the District limit, or is finally anchored or safely moored at her intended destination or as near as possible thereto if there are circumstances beyond the pilot's control.

The Pilotage Authority does not have the power to vary the terms of sec. 361 by regulations. Therefore, that part of the provision generally found in District By-laws, e.g., subsec. 17(1) of the Quebec General By-law reading "...or until he has been relieved by another pilot" is ultra vires and of null effect. One method of achieving this proposal would be to make the harbour of Quebec a separate Pilotage District whose waters would be the joint territory of the pilots of the contiguous Districts for the purpose of changing river pilots for ships in transit, or interchanging harbour and river pilots in the case of ships departing from a berth or destined to a berth in the harbour. This step, however, would require altering the eastern and western limits of the Pilotage Districts of Quebec and Montreal. To achieve this, an amendment to secs. 322 and 323 C.S.A. would be required since it entails more than a mere modification of limits and would represent a substantial departure from the basic purpose of these sections.

Apart from the legal question, it is worth appraising the practicability of the proposal since the legal objection could easily be overcome by an appropriate amendment to either sec. 361 or secs. 322 and 323, or by providing for the new situation in the proposed new Pilotage Act.

To implement the proposal, two boarding stations would be required in the vicinity of the eastern and western limits of the harbour, each with its own pilot vessel service. The present boarding station was conceived to serve ships in transit. The changeover of pilots is effected in mid-harbour at almost the only place where this can be safely done, i.e., in the area where a ship can steer a straight course inside the harbour limits. It would be unsafe to require a ship to detour to this boarding area to embark or disembark a berthing pilot and then turn in the stream. Harbour pilots for ships upbound whose destination is a wharf in the eastern part of the harbour would have to board outside the harbour, i.e., off Orleans Island, since it would be most dangerous to do so anywhere within the Lauzon bend. Ships downbound proceeding to a berth situated on the west side of the harbour would have to be boarded well west of the Quebec bridge since it would be unsafe to do so in the narrow part of the harbour between the bridge and Sillery Point where the channel curves and the fastest currents and cross-currents are met.

It is true that the recommendation received from the Federation of the St. Lawrence River Pilots (vide p. 88 and p. 340) was limited to up-bound vessels with a Quebec pilot on board. Their proposal, however, takes into account only part of the problem and, from the evidence received, the less important part. No doubt the lack of support of the Montreal pilots was prompted by the fact that since the division of their District at Trois-Rivières they could not seriously contend that a trip from Trois-Rivières to Quebec would be so unduly long as to render them unable to berth on arrival; they must have rightly feared that, if other pilots performed all



berthing and unberthing in Quebec, the rates would be readjusted to their disadvantage.

For efficient service, it would be necessary to station a pilot vessel in the vicinity of both boarding areas and abolish the mid-harbour boarding area for ships in transit to avoid the necessity of keeping a third pilot vessel base for that purpose. If a single pilot vessel service were retained in mid-harbour, pilot vessels would have to travel much longer distances to the boarding areas and this would inevitably result in a substantial upward revision of the tariff.

The argument that berthing pilots would save vessels time and money is not convincing when the situation is considered in its entirety and not limited to specific exceptional instances (for detailed study, vide pp. 322 to 345).

A changeover of pilots is always a time-consuming operation and the imposition of berthing pilots would mean unnecessary delays for the great majority of vessels that are regularly berthed upon arrival. Furthermore, one of the reasons for delay, i.e., lack of up-to-the-minute information about conditions in the harbour, is not likely to occur now that the sophisticated radiotelephone network through which the pilots may obtain necessary information about weather, traffic and berths has been established.

The creation of a separate group of berthing pilots would prove very expensive without a very much larger demand for their services than now exists. It is a proven fact that the subdivision of a District with a compulsory changeover of pilots results in an increase in their number and the overall cost of the service which has to be met through higher rates. This was the experience when the Montreal District was divided at Trois-Rivières and also when it was decided to relieve pilots at lock 7 when transiting the Welland Canal. An immediate increase in strength is required in order to compensate for the ensuing increase in the pilots' idle time on duty, i.e., travelling, waiting and rest periods.

Allowing for absence on account of illness, leave or rest periods, the minimum number of berthing pilots would be four, since vessels should not be kept waiting. As shown on pp. 337 and 338, in order to remunerate these pilots on a comparable basis with other District pilots, it would be necessary to fix a substantial berthing charge, thereby adding another increase in the cost to shipping.

In addition, the service would also be more costly to ships in that a pilot boat would be added, whereas this service was not needed before.

It is apparent that the main purpose of the Quebec pilots' proposal is to improve their working conditions by shortening their trips. This, however, is only one way of achieving this aim and it is the most expensive at

the present time. This argument loses much of its force when recent changes are considered. The duration of the trip has been shortened since the move of the boarding area from Father Point to Les Escoumins. Ships are now much faster, thereby substantially reducing time under way. Aids to navigation have been improved and ships are now equipped with modern aids to navigation which enable them to make good time despite adverse conditions. No evidence has been adduced to establish that the eight to ten-hour average duration of the present trip from Les Escoumins to Quebec is more tiring and demanding than the 18 to 20 hours a trip from Father Point to Quebec used to take with a slower ship. In those days, the pilots were never relieved for the purpose of berthing. As stated by the Commission in its General Recommendation No. 8, the length of a District should be calculated to coincide with the longest normal pilotage assignment a pilot may be required to perform (Part I, pp. 476 and ff.). The evidence adduced and the pilots' safety record clearly indicate that the turns of duty the Quebec pilots are now required to make, even for trips from Quebec to Port Alfred or vice versa, are not so abnormally strenuous as to endanger the safety of the ship. However, in cases of abnormal duration, berthing at Quebec should be handled by a rested pilot, if and when the trip pilot requests to be relieved for that purpose. This procedure has been long resorted to in special circumstances by the Quebec District Supervisor.

A study of the statistics that were furnished and also an analysis of the 1964 traffic in the harbour of Quebec indicate that the extent of the problem has been exaggerated. In those cases where delays occurred, the availability of harbour pilots would have helped in only a few; in most cases, the causes of delay were beyond the control of the pilots no matter how skilled they were. The very few occasions when vessels would have definitely benefited by the availability of berthing pilots are small and do not warrant disturbing a system which has worked well up to now.

It is obvious that there is room for improvement in the skill and qualifications of some of the Quebec and Montreal pilots with regard to ship-handling while berthing and manoeuvring in the harbour, as is borne out by the number of minor casualties occurring in the process and delays caused by pilots who feel unqualified to berth at certain wharves or piers at any time or under certain circumstances, although other pilots are prepared to do so. It is considered that a pilot's performance in berthing upon arrival and his skill in shiphandling should be factors to be considered in grading. In other words, the constant refusal of a pilot to berth vessels in circumstances where other pilots would act should be interpreted as meaning that he is less qualified than the others and this should be reflected in his grading. Such an attitude would serve as an incentive for all the pilots to increase their local knowledge of the harbour and their skill in shiphandling

—an incentive which is entirely lacking now because they gain nothing financially by not waiting for the most favourable conditions.

The problem would be partially solved, and at the same time a defect in the present tariff structure would be remedied, if a berthing and unberthing charge were added as a component of the voyage charge. The present tariff structure is not realistic because it does not take into consideration that most of the traffic consists of vessels in transit and, hence, few pilotage assignments involve the exacting operation of berthing. In all fairness, it is considered that a voyage charge should be greater when berthing or unberthing is involved (vide Part I, p. 183).

The amount of the berthing charge should be sufficient to serve as an inducement for a pilot to berth upon arrival and, on the other hand, should mean a saving on the other charges that would be payable by a vessel if a berthing pilot had to be employed.

It is further considered that this problem should be closely studied by the Pilotage Authority. Changing conditions, such as a larger number of ships making Quebec a port of call, may render harbour pilotage service at reasonable rates economically feasible, although this is not expected to happen in the near future. The Pilotage Authority should deal actively with the problem, keep complete and detailed statistics, investigate the causes of problems as they arise and bring about improvements where possible.

It is agreed that a pilot should never be compelled to berth a ship when he does not feel competent under the prevailing circumstances. Such occurrences, however, should be investigated by the Pilotage Authority to ascertain whether the competency and skill of the pilot concerned appear to be in question. This does not amount to interfering with the pilot's decision but is merely an appraisal of his qualifications based on his record. It is the Pilotage Authority's duty to ensure that its pilots are fully qualified and the best possible service is being provided; a Pilotage Authority would show ignorance of its responsibilities if it adopted a negative attitude.

#### RECOMMENDATION No. 7

**The Grade System to Be Extended to All Groups of Pilots; the Exclusive Competency of Grade A Pilots to Be Established at a Very High Level to Comprise Only the Most Difficult and Extraordinary Cases; Permanent Licences to Be Issued Only when a Pilot Reaches Grade B; Grade C Pilots to Receive a Temporary (Probationary) Licence**

The grade system answers a genuine need, especially when the nature of the service demands a high degree of *expertise* and skill before a pilot can be indiscriminately entrusted with any type of assignment which may occur



in his District (Part I, pp. 263-4 and Part IV, pp. 673 and 750-51). This is the case for all the St. Lawrence River Districts, although to a lesser extent for the Montreal harbour pilots (p. 681) and the Cornwall pilots (p. 938).

While Grade C is a temporary grade of relatively short duration because it is merely the continuation of a pilot's training, Grade A is not the regular grade of a fully qualified pilot but a grade of exception which should be dealt with as such.

Grade A is merely a way of selecting from fully qualified pilots a limited group who possess the greatest experience and skill in handling the most difficult and unusual assignments.

The District regulations should not only define the exclusive competency of Grade A pilots but also their number and the rules governing eligibility and downgrading. These regulations should conform to the following criteria:

- (a) The special exclusive competency of Grade A pilots should be limited to cases of exception and its definition should be revised as required to exclude those cases which become regular occurrences and, hence, should be within the competence of all Grade A and Grade B pilots.
- (b) Grade A should not be permanent but temporary, although of unlimited duration. A Grade A pilot should revert to Grade B whenever it appears to the Pilotage Authority that due to age or any other reason he no longer possesses the required exceptional qualifications and skill. Whenever there is any doubt, a Grade A pilot should be preventively reverted to Grade B pending investigation and reappraisal (Part I, pp. 556-581).
- (c) The number of Grade A pilots should be determined by service needs and, at the same time, care should be taken that each Grade A pilot has the greatest possible number of special assignments in order to maintain his *expertise* at the highest possible level.

The purpose of Grade A is defeated if it is regarded as a way of providing higher remuneration for senior pilots. While it is considered that Grade A pilots should receive higher remuneration, this consideration must remain secondary. To avoid the temptation to keep the Grade B competency ceiling low in order to ensure higher revenue for the Grade A pilots (vide p. 674), it is considered that the number of Grade A assignments performed should have no bearing on the remuneration of Grade A pilots. In a pool system, the percentage system applied to Grade C pilots should be extended to Grade A pilots; they should receive a larger share on a percentage basis, the extent being related to their added responsibility. This is the method that, after thorough experience with the system, was adopted in 1969 by the Montreal river pilots (vide p. 799).

If there is a change in the pattern of shipping or if—as in the Cornwall District—the physical features of the channel have fixed the maximum size of ships, the number of Grade A pilots may have to be reduced. If so, a further selection to the required number should be made, not on the ground of alleged acquired rights but of higher qualifications and *expertise* and longer expected service. For instance, if two pilots have equal *expertise* and qualifications, the younger should be retained in preference to the one who is about to reach the age limit for the grade.

It is considered that the grade system should also be further improved by providing that Grade C must be accompanied by a probationary licence (vide p. 673 and Part I, p. 269). Grade C is, in fact, the continuation of apprenticeship: it is the practical stage of that training and should be dealt with as such. It is unwise and dangerous to issue a permanent licence to a candidate without full opportunity to appraise not only his knowledge but also his skill and *expertise* as a navigator in the confined waters of the sector for which a permanent licence is to be issued. It is through gradual, practical training in Grade C that such skill and *expertise* can be appraised. Grade C is essentially a temporary grade and a candidate who fails in due course to meet the standards required to be promoted to Grade B should be struck off the list—a procedure which is no longer possible once a permanent licence has been issued. The training of pilots should be devised to ensure that permanent licences are granted only to persons who have proved they possess all the required qualifications.

#### RECOMMENDATION No. 8

**The Direction of the Service in the St. Lawrence River Districts to Remain in Law, and Become in Fact, the Sole Responsibility of the Pilotage Authority of Each District; the Equalization of Trips System to Be Abandoned; Assignments to Be Made According to a Regular Tour de Rôle Based on Availability for Duty with Due Regard for Pilots' Grades and Safety of Navigation**

History and experience provide unmistakable proof that pilotage in the St. Lawrence River Districts is not only a service that must be made available to shipping as a public convenience and necessity but must also be planned, coordinated and controlled in the public interest (Part I, p. 77). Pilotage as a free enterprise system with an unlimited number of licensed pilots was totally abolished a hundred years ago in the Districts of Quebec and Montreal for reasons of economy as well as the safety and efficiency of the service (p. 39 and p. 592). The pitfalls inherent in such a system (as was clearly established at the time) still exist, notwithstanding great techno-

logical advances in the fields of navigation and communications (Part I, pp. 41 and 42). A return to this system as a solution to the existing pilotage problems on the St. Lawrence would be, in the Commission's view, a serious mistake.

Moreover, the Commission believes that, if pilotage in the St. Lawrence River Districts must continue to be a fully regulated public service, its direction must remain a basic government obligation. To transfer to, and vest in, pilots or ship owners' associations the responsibility for this function would be unwise because of the constant conflict between their private interests and the interests of the public (Gen. Rec. 14, pp. 495 and ff.). Disregard of this basic principle was the main reason why the 1860 Quebec Pilots' Corporation collapsed for all practical purposes in 1914.

The distribution of pilotage assignments should be governed by considerations of the safety of navigation, the efficiency of the service and, as far as possible, the equitable distribution of the workload (vide Part I, Gen. Rec. 26, p. 556; Gen. Rec. 29, p. 563). Although rules should exist, they should not be hard and fast but leave complete freedom of action whenever it appears to the local officer charged by the Pilotage Authority with despatching that a special case calls for special consideration. These rules should be untrammelled by considerations solely affecting pooling or the pilots' remuneration.

It is considered that the only equitable despatching system is a tour de rôle based on the order of availability for duty, as practised in all Pilotage Districts except those on the St. Lawrence River. In addition to the great advantage of simplicity, it has worked exceptionally well and has made possible an equitable sharing of duty time among the pilots. A pilot's name is placed at the bottom of the list at the pilot station the moment he terminates an assignment or his leave of absence expires; the pilots are then assigned in regular turn as their name appears on the list for any type of assignment—trip, movage, compass adjustment, etc.—provided they have had an adequate period of rest whose duration should be established by regulations and should vary according to the type and length of duty performed and the aggregate piloting time in any given day. In the case of a pilot being ordered by the Pilotage Authority to be transferred from one station to the other, or in the case of a pilot disembarking at an outport, his name should be placed on the list at the time he should have reported to the station to which he was transferred or which is nearest to the outport where he disembarked. All pilots with equal availability should also be granted regular, periodic holidays but the Pilotage Authority should be empowered to vary the dates to meet unexpected demands for pilotage.

As recommended, official recognition of each pilot group should be given by providing for their incorporation (Gen. Rec. 25, Part I, p. 549)



and pilots should be excused from pilotage duty for the time necessary to attend Directors' meetings or undertake other business of the Corporation or the pilots as a group.

The only exceptions would be special and emergency situations and the requirements of the grade system. The local officer responsible for despatching should have not only the power to take off the list any pilot whose fitness he considers questionable but also full liberty to depart from the tour de rôle to assign in special cases the pilot who, in his judgment, is most suitable or whom it is more convenient to assign in the circumstances, e.g., lack of an appropriate pilot at St. Lambert lock (vide pp. 755 and ff.).

The limitation on the professional competency of Grade C pilots should not affect the tour de rôle unduly because their number is bound to be small. Since the period spent by the pilots in this grade is the practical stage of their training, they should be given as many Grade C assignments as possible, irrespective of their place on the tour de rôle, provided they have had sufficient rest after each previous assignment.

If the competency of Grade A pilots is limited to extraordinary cases (vide Rec. 7), the occasional Grade A assignment should not disturb the regular flow of the tour de rôle. Although Grade A pilots are liable to be assigned ahead of time, care must be taken that they also have a regular rest period after a previous assignment. The chances of a greater workload for Grade A pilots should be decreased by providing in the regulations that Grade A pilots at the top of the list are to be reserved for Grade A assignments scheduled for the near future. However, no unusual steps should be taken to ensure that the aggregate workload of Grade A pilots does not exceed that of Grade B pilots because this possibility should be one of the factors taken into consideration when the percentage difference between the remuneration of Grade A and Grade B pilots is established.

When the despatching system is based on the number of trip assignments performed, it is incomplete, does not achieve an equitable division of the pilotage workload, causes a maze of ever changing rules and, in addition, has proved inadequate.

The complicated system of despatching now in force in the St. Lawrence River Districts is not due to special circumstances, the peculiarities of these Districts or the type of services being performed but results from the legal restrictions imposed on the pilots of Quebec and Montreal (and nowhere else in Canada). These led to makeshift arrangements instead of the normal system. The two principal difficulties were caused by the extensive special pilot system, whose existence was incompatible with the operation of a tour de rôle (p. 480 and p. 793), and the unrealistic attitude of the Pilotage Authority toward pooling (pp. 429 and 495 and ff.). The main obstacle—the special pilot system—has been removed since 1959 and 1960, and the

other is now merely nominal. It is obvious that, if the pilots had so requested, the Pilotage Authority would have established pooling legally as their mode of remuneration and would have operated it without charge to them. If they did not make such a request, it was because of other considerations that have no bearing on the question (vide Rec. 9). This is shown by the official attitude adopted by the Montreal Pilotage Authority when it created the harbour pilot group (pp. 573 and 803). Since no obstacle now exists to prevent a true tour de rôle system, there is no reason why the procedure normally followed elsewhere with satisfactory results should not be followed in Montreal.

The equalization of trips system presupposes that all assignments are of the same type and of the same duration, but this is not so. It is because of considerations foreign to despatching that the system does not recognize duty time spent on other types of assignment or resulting from a cancellation. This was necessary to permit the incomplete pooling the pilots were forced to adopt because of circumstances that no longer exist. It results in an unequal distribution of the aggregate workload and, if movages are handled on a voluntary basis, deprives certain pilots of necessary experience. The system is basically unjust when some pilots (pp. 430-431 and 958-959), who have had the good fortune to serve on trips of short duration because good weather prevailed or they had a fast ship, are forced into idleness, while other less fortunate pilots with equal availability, because their assignments had been extended, are required to work longer hours in order to register the same number of assignments. To correct the most flagrant cases of resulting discrimination it has been necessary to amend the despatching rules to provide for extra turns for trips of extraordinary duration.

The system is basically unjust when a pilot who has been constantly available is deprived of the opportunity at the end of the year of making up turns lost through circumstances beyond his control, thus leaving him no time to retrieve his position and avoid loss of remuneration (p. 435). In an effort to correct this injustice in their pooling system the pilots have resorted to the "maximum average" device (p. 435), and lately the Montreal river pilots have extended the equalization privilege beyond the end of the year by providing through a further amendment to the despatching rules that the first list at the beginning of the pooling year does not start at zero but reflects the difference in turns on the previous list (vide pp. 798-99).

The indiscriminate application of the equalization rule has resulted in extensive absenteeism to the detriment of the efficiency of the service (pp. 431-432) which has forced the pilots of all groups, except those in the Quebec District, to restrict the application of the principle to periods of availability for duty. Furthermore, in order to prevent the absenteeism of pilots high in turns at the end of the season when all pilots must be

available, the Cornwall pilots have been obliged to resort to a financial penalty by modifying their pooling arrangements to provide for their so-called winter pooling where the shares are based on the number of days of availability in that period pp. 980-81). In fact, through a never ending series of amendments to the despatching rules, the system is being modified gradually into one based on availability for duty. The ensuing long list of despatching rules (nevertheless incomplete, pp. 436-7) and the repeated amendments to which they have been subjected (making them more and more complicated) indicate the basic inadequacy of the system and the necessity for its replacement as recommended.

RECOMMENDATION No. 9

**In the Proposed Districts of Quebec and Montreal, the Remuneration of Pilots (unless They are Salaried Employees) to Be a Share of a Pool, Administered by the Pilotage Authority, of All Pilotage Revenues Based on the Pilots' Earnings, Availability and Grades; Pilots' Corporation Expenses to Be Financed through Membership Dues Deducted at Source from the Pilots' Shares in the Pool**

Since pilotage between Quebec and Cornwall should be classified a necessary public service and pilotage between Les Escoumins and Quebec a public service (Rec. 4), the status of the pilots concerned must be employees directly or indirectly (Gen. Rec. 24, Part I, p. 545). If the pilots in the sectors between Quebec and Cornwall refuse to become public servants, their status would be *de facto* employees of their Pilotage Authority, as is now the case. This would also be the case if the offer to become public servants is not made to the pilots in the Les Escoumins/Quebec sector, or if it is made and rejected. Reference is made to Part III, pp. 293-4, for the Commission's opinion of the Prevailing Rates system, and to Part III, pp. 210-213, for the Commission's concept of, and recommendation concerning, the status of public servants as far as pilots are concerned.

To pool pilotage earnings is the only equitable alternative to a salary as the method of remunerating such pilots. When the provision of services is fully controlled by the Pilotage Authority, full and complete pooling is a necessary feature to correct the unwarranted differences in income that would otherwise result (Part I, pp. 192 and ff.). The pilots' prime duty is to make themselves available and perform services as directed by the Pilotage Authority. Hence, pilots of the same grade should receive equal remuneration for equal availability.

It is the responsibility of the Pilotage Authority, as employer of the pilots, to ensure that they are equitably remunerated and, when the form of



remuneration is not a straight salary, to operate the pool. The pooling system and its operating rules should be fully laid down in District regulations.

There is no reason why pooling should not be officially recognized in the present Districts of Quebec and Montreal as a necessary element for the efficient operation of pilotage, as is done in all other parts of the country. The unrealistic and discriminatory attitude of the Pilotage Authority not only causes the pilots extensive and unnecessary administrative expenses (p. 491) but has also brought about a very unsatisfactory alternative, i.e., voluntary pooling operated by the Pilots' Association or Corporation, which has been a cause of contention among the pilots and may give rise to much abuse. The mere possibility that some pilots may be unable to participate in the pool (as has been the case with the dissident Montreal river pilots since the end of 1968) is a basic deficiency in the present system and remains a dangerous potential cause of disputes. This situation is not in the best interests of the service (p. 793).

If the pilots' remuneration is to be a share of pilotage earnings, it is their right to ensure that the money is not used except as provided by legislation and that there is equitable sharing with full accounting. This is far from being the case at present. The Pilots' Corporation treats pilotage earnings as Corporation revenues (which is illegal (p. 977) and makes large expenditures, such as insurance premiums, from the pool by majority decision, at times without some pilot's consent. The pooling procedure is unnecessarily complicated and occasionally deficient as, for instance, the system followed by the Montreal river pilots (p. 800). It suffices to examine the rules governing the present pooling systems and observe how they are operated (vide pp. 478 and ff., 793 and ff. and pp. 977 and ff.) to realize that the present situation is most unsatisfactory and must be corrected.

There are no local conditions in the Districts which alter the basic principles of pooling and, therefore, nothing to prevent uniformity of procedure. The most equitable pooling system is based on availability for duty and divides all pilotage revenues on the basis of earnings and not dues collected. A method of financing advance and final distributions should be established and the outlay involved should be included in the operating expenses of the pool. It is an unnecessary bookkeeping complication to keep the final distribution open until the dues forming part of a given pooling operation are fully collected (p. 806). The only advantages of such a procedure are that there are no financing expenses and bad debts are automatically prorated on the shares of the pooling period in which they were incurred. These advantages are minimal in practice and are offset by the resulting complications in bookkeeping and accounting, especially when the number of participating pilots is large. Ways could be found to reduce the

cost of financing the final distribution, e.g., requiring prompter payment from shipping and setting up a fund as in the B.C. District (vide Part II, p. 185). Experience has proved that the incidence of bad debts is very small and, therefore, no injustice is created if they are entered as a charge against the current pooling operation at the time they are written off, especially since most of the sharing pilots will be the same.

In a system where the provision of services is fully controlled, it is availability for duty that counts and should be remunerated. The number of assignments and hours piloting are matters over which the pilots have no legal control but which depend upon instructions issued by the Pilotage Authority. Hence, pooling ought to be based on availability for duty, including, as defined by regulation, rest periods between assignments, periodical and annual holidays, authorized time spent attending to the affairs of the Corporation or the pilots as a group, special cases when a pilot is prevented from piloting by circumstances beyond his control, such as a preventive suspension or a summons to appear as a witness, a court expert or an assessor. The regulations should also provide for indirect illness benefits as is done for salaried employees. If there is a judicial finding of professional or moral unfitness, neither a previous preventive suspension nor a suspension imposed by a court should count as time available. The same principle should apply in cases of physical unfitness due to a pilot's wilful act or his use of alcohol or drugs.

The amount of the full share should vary according to pilots' grades on a percentage basis as has been the practice so far for remunerating Grade C pilots, and as is now the case for all Montreal river pilots (p. 799). For other rules, vide Part I, p. 194.

The Corporations should meet their operating expenses and other expenditures in the only legal and permissible way, i.e., through dues and special assessments legally established and imposed, thereby giving the members legal control over Corporation expenditures. These Corporation dues and special assessments should be deducted at source from each pilot's share by the Pilotage Authority (Gen. Rec. 25, Part I, p. 549).

#### RECOMMENDATION No. 10

##### **For Purposes of Winter Tariff and Double Pilotage Assignments, the Winter Season to Coincide with the Period when Winter Conditions Actually Prevail**

When the By-law defines the winter season by reference to fixed arbitrary dates, it neither corresponds to reality nor satisfies the conditions which justify the joint assignment of two pilots and the special compensation they receive.

Safety of navigation requires that two pilots be assigned together at the end of the normal navigation season as soon as navigational risks are materially increased by the onset of winter, i.e., when ice commences to form and the regular aids to navigation are being removed, and the same principle applies in reverse at the beginning of the season. Since the time of the month when this situation occurs and the number of days it lasts vary substantially from year to year, it is unrealistic, inequitable and contrary to the requirements for safe navigation to establish by fixed dates the beginning and end of the period during which two pilots are to be jointly assigned.

If winter arrives late, it is irresponsible and wasteful to assign two pilots simply to meet a December 1 date for, as experience has shown, this may result in an actual shortage of pilots because the end of the season is generally a peak period, and the fact that the traffic is mostly outbound further affects the availability of pilots who have to be transferred by land to the upstream station.

On the other hand, in any early winter which requires the removal of buoys before December 1 it would be irresponsible not to assign two pilots just because the date set in the regulations has not yet arrived, and equally, if two pilots are assigned in the interest of safety, it would be inequitable not to apply the winter surcharge and other tariff provisions when the conditions which warranted their adoption are actually met.

The same observations apply in reverse to the end of the winter season.

The situation in the Cornwall District is a case in point. The winter provisions of the regulations apply to the period between December 1 and April 8, although there is no winter navigation as such since there is no maritime traffic when the Seaway is closed. Occasionally, because of the severity of the winter, the Seaway does not open until after April 8. In this event, no winter rates will be chargeable and it will be illegal according to the By-law to assign two pilots jointly, despite the fact that hazardous conditions may prevail after the opening of the Seaway, whether this occurs before or after April 8 (vide p. 927).

Therefore, it is considered that the District regulations should be amended to empower the local operational authority to make the winter provisions applicable whenever extraordinary navigational conditions prevail at the beginning and end of the normal navigation season.

#### RECOMMENDATION No. 11

##### **The 1850 Act Incorporating the Montreal Pilots and the 1860 Act Incorporating the Quebec Pilots to Be Formally Repealed**

The 1850 Act incorporating the Montreal pilots into a professional corporation (Corporation of the Pilots for and above the Harbour of Quebec,



13-14 Vic. c. 123 as amended by 16 Vic. c. 258) was never given effect to because it did not grant the pilots the type of incorporation they had petitioned for, and they refused to hold the first meeting which would have activated the Corporation (vide pp. 589 and ff.) This Act apparently was never repealed. It is doubtful that it could serve any useful purpose now and there will be no need for it if the Commission's General Recommendation No. 25 (Part I, p. 549) is implemented. Therefore, even if only to clarify the legislation governing pilotage, it is considered that this Act should now be formally abrogated.

The same recommendation applies to the 1860 Act incorporating the Quebec pilots (Corporation of Pilots for and below the Harbour of Quebec, 23 Vic. c. 123), although it is still partly in force and effect. In 1914, by 4-5 Geo. V c. 48, the Pilots' Corporation was deprived of all its powers except those it had inherited from Trinity House in 1875 (38 Vic. c. 55) over the Decayed Pilot Fund. However, the 1914 Act did not repeal specifically any of the sections of the 1860 Act, leaving in doubt the applicability of some sections which were not directly affected, e.g., the right of Masters down-bound to choose anyone whose name appeared on the tour de rôle list at Quebec and upbound anyone on board the pilot vessel, and also the obligation for a pilot to serve when so chosen no matter how many times he had previously served (pp. 40-41). It is possible that these provisions were abrogated by implication but the process was far from satisfactory (Part I, p. 18).

The only purpose the 1860 Quebec Pilots' Corporation now serves is to administer the Quebec pilot's Pension Fund. In doing so, it is governed by the Trinity House legislation which does not apply because it refers to a situation that no longer exists (pp. 264-266, and 499 and ff.).

If the Quebec Pilot Fund is to be retained (which is not considered advisable (vide Gen. Rec. No. 39, Part I, p. 581)), it is considered that the governing legislation should be replaced by adequate legislation. There would be no need to keep in activity for that sole purpose the 1860 Corporation and, therefore, 23 Vic. c. 123, as amended by 32-33 Vic. c. 43, 25 Vic. c. 70 and 38 Vic. c. 55, should be abrogated.











BINDING SECT.

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